NAVY DEPARTMENT

BUREAU OF NAVIGATION

CASE INSTRUCTION

SERIAL NUMBERS 1 TO 10

COLLISION CASES

Prepared by the
Training Division
Bureau of Navigation

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PREFACE

In 1928 the bureau began the compilation of cases involving collision and casualties, using the records available in the department, for the special use of the General Line Course Class at the Postgraduate School.

The bureau believes that these cases have met with success at the Postgraduate School and that they may be of interest to officers of the naval service. It is felt that the ability and experiences of a naval officer may be greatly broadened by a thoughtful study and interpretation of the experience of others. It is possible, also, that his own ability to deal with practical situations in emergencies may be increased by careful consideration of the problems involved in similar situations. The cases include actual casualties which have happened in the Navy in past years, and are based upon facts which have been drawn from the records in the department. The names of ships and officers concerned have been purposely changed or omitted.

In each case, a short, clear-cut narrative presents the circumstances leading up to the casualty, and this supplemented by the facts brought out in the trial of the case, presents a clear picture of the circumstances, the points of view of those in command, and the basis of the action they took in dealing with the situation. The Navy Regulations, Rules of the Road, laws, and court decisions pertinent to each case are also included.

The bureau has presented these cases to the service in the hope that they may be of value and use to all officers. It is not intended that they shall be used in any way as a precedent. Comment and suggestions are desired as to the merits of these cases, or suggestions as to the improvement in their presentation or use.

R. H. LEIGH,
Real Admiral, United States Navy,
Chief of Bureau of Navigation.

NAVY DEPARTMENT,
BUREAU OF NAVIGATION,
April 15, 1929

COLLISION CASE NO. I

Principal Points Involved.

(*a*) Formation and station keeping in a fog.
(*b*) Communications and signaling.
(*c*) Ship handling in formation.
(*d*) Navigation and piloting on soundings in a fog.

Opinion and Findings of Court of Inquiry.

(*a*) The real or primary cause of the collision was poor station keeping and the use of big changes of speed in the endeavor to maintain position.
(*b*) The use of whistles in a fog for other than sounding fog signals is dangerous.

Action Taken by Convening Authority.

(*a*) Letter of reprimand sent to officer of the deck of *No. 3*.
(*b*) Captain and officer of the deck of battleship *No. 5* to be court-martialed on the charge of negligence.

COLLISION CASE NO. I

A squadron of battleships was making passage from Massachusetts Bay to Newport, R. I., formation, column open order, distance 400 yards, speed 12 knots. The weather was clear, wind southwest, force three. There had been no weather reports received by radio. All ships were of the reciprocating-engine type. None had gyro compasses. Radio was installed but at this time no reliability was placed on this method of communication.

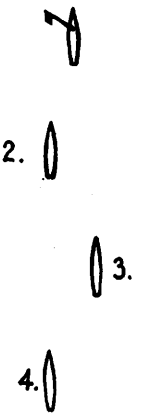

Fig. 1.

Formation at time Fog set in.

At 0100, July 31, 1905, the squadron rounded Nantucket Shoals Light Vessel. The course, 310° true, was set for Brenton Reef Light Vessel. No fixes were obtained from this time until the collision.

A light haze set in about 0400, gradually becoming a heavy fog. By 0805 visibility had been reduced to about 150 yards.

Brenton Reef Light Vessel bore from the leader by dead reckoning 345° true, distant 6 miles, at 0800. The squadron at 0803 changed course to head for the light vessel. The signal for this change was sent by whistle. As the leader changed her course she indicated this by blowing a single blast on her whistle. The other ships in the formation changed in succession, indicating the change by sounding one blast on their whistles.

The sixth ship in formation changed course at 0810. All the ships made the change. All had started their fog whistles prior to 0800. The fleet regulations and the tactical signal book required that ships should sound their call letters as a fog signal when in formation.

The squadron commander decided to reduce speed to 8 knots because of the near approach to land, the fog, and the fact that no position had been obtained since rounding Nantucket Shoals Light Vessel. At 0805 the signal " speed 8 knots " was sent by whistle, using the P. D. L. method as required by the tactical signal book. This procedure had been emphasized by signal the previous day. The signal of execution was to be sent by the flagship on receipt of the signal of acknowledgment of the last in column.

The speed signal was repeated by *No. 5* at 0816. It was acknowledged by *No. 6* and repeated by her at 0818. It never was received by *No. 8*. The flagship, as she had not received the acknowledgment by 0816, sent the speed signal by radio. From before 0800 all the ships had been sounding their fog signals with resulting confusion in the air.

At 0820 the fog had increased in thickness. The flag decided that, even though the signal had not been acknowledged, safety required the speed to be reduced. The signal of execution was sounded and the speed reduced to 8 knots.

Prior to 0800, the squadron had been keeping fairly accurate position. As the course was changed to 345° true, *No. 7* closed up on *No. 6* and then dropped back to her proper position. At 0810 *No. 6* had steadied on the new course and recognized the fog signal of *No. 4* dead ahead and that of *No. 5* about half a point on her starboard bow.

Fig. 2.
Situation at 0816

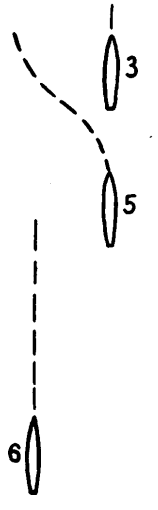

Fig. 3.
Course of #5 from 0816 - 0818

On *No. 3* a midshipman, a year out of the academy, relieved the officer of the deck at 0800. Shortly afterwards, *No. 3* closed on *No. 1* and *No. 2*, so that her speed had to be reduced to two-thirds and then to one-third in order to lose distance. One-third speed was equivalent to 4 knots, standard to 12 knots, and full to 15 knots. As a result of these large changes of speed, *No. 3* dropped rapidly astern and soon lost 800 yards.

About 0815, a ship recognized as being *No. 4* was sighted from *No. 3* on her port bow. The officer of the deck realized that he was far out of position. He immediately increased speed to standard. (See fig. 2.)

At 0816, *No. 5* sighted *No. 3* close aboard, dead ahead to slightly on her starboard bow, with about 70 yards of open water between them. The officer of the deck of *No. 5*, a lieutenant, stopped and then backed both engines full speed. As the ships still seemed to be closing, *No. 5* went "emergency full speed astern." "Collision quarters" were sounded with the accompanying long blast on the siren. The captain, navigator, and executive officer were on the bridge.

The speed signal was being sent by *No. 5* to *No. 6* on the whistle. "T," the last letter of the word "knot," had just been sent. The officer of the deck grabbed the whistle cord and sounded three blasts on the whistle to indicate that the engines were backing full speed. These blasts could have been mistaken for the letter "S" or the end of the message.

With the engines backing full speed and the rudder full left, *No. 5's* head fell off rapidly to port 30°. The ship's headway made her forereach about 150 yards so that she was across the course of the oncoming *No. 6*.

At 0818 *No. 3* began to open out from *No. 5*. Seeing this, the officer of the deck of *No. 5* gave the order, **"All engines ahead one-third, right full rudder,"** followed by **"Standard speed."** At no time did *No. 5* during this shifting of the engines lose her headway. (See fig. 3.)

When the danger of collision was over, "secure" was sounded on *No. 5*. The records on *No. 5* do not show whether or not the signal was sounded on the siren. Reports from other ships were to the effect that three blasts on the siren were heard. The ship sounding them was not identified. The officer of the deck of *No. 6* testified that at 0817 he heard a long blast on a siren, followed very shortly by three short blasts.

At 0819, *No. 5* sighted *No. 6* broad on her port beam to slightly forward of the beam, distant 125 to 150 yards. The course of these ships seemed to be converging at an angle of about 30°. (See fig. 4.)

Sighting *No. 6*, the officer of the deck gave the following orders: **"Right full rudder, starboard engine back full, port engine ahead full."** Just before the ships struck, **"Stop both engines."**

No. 6 had maintained an accurate position in column, the officer of the deck was fully alive to the existing conditions. Lookouts were properly set and full attention was given to the navigation. The executive officer and the navigator were both on the bridge.

As *No. 5* was sighted, the officer of the deck of *No. 6* gave the following orders: **"Left full rudder, starboard engine ahead full, port engine back full."** Just before collision, **"Stop both engines."**

At 0820 the two battleships collided, *No. 6* striking *No. 5* abreast frame 25 on the port side. The damage to the ships amounted to about $50,000, and it required about three weeks to effect repairs.

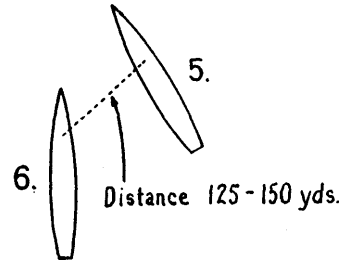

Fig. 4.
Situation at 0819.

A court of inquiry was convened by the squadron commander and found as follows:

(*a*) That when *No. 3* was sighted by *No. 5* close aboard there was grave danger of collision. That the maneuver attempted by *No. 5* was not the correct one but was the direct cause of the accident.

(*b*) That the procedure as laid down in the signal book is the correct one.

(*c*) That *No. 6* was handled correctly and that there is no blame attributable to any one on that ship.

(*d*) That proper lookouts were stationed and were on the alert.

The court expressed its opinion as follows:

(*a*) That the primary cause of the accident was the poor station keeping of *No. 3*.

(*b*) That the poor station keeping was due to the use of large changes of speed in the endeavor to maintain position.

(*c*) That the use of whistle signals for the transmission of a signal in a fog is undesirable, as it but adds to the confusion incident to the fog signals.

The court recommended that the officer of the deck of *No. 3* be reprimanded for inefficiency in the performance of his duties, and that the captain and officer of the deck of *No. 5* be tried by general court-martial for negligence and culpable inefficiency in the performance of their duties.

The subsequent court-martial found these officers not guilty of the offense charged.

COLLISION CASE NO. II

Principal Points Involved.

(*a*) Station keeping in formation.
(*b*) Ship handling in maneuvers.
(*c*) Application of the Rules of the Road to ships in formation.
(*d*) Signaling and communications in relation to maneuvers.

Findings of Court of Inquiry.

(*a*) The collision was primarily the result of the inattention to duty on the part of the officer of the deck of "*B*."
(*b*) That the officer at the con on "*A*" was also responsible but to a lesser degree.

Recommendation and Disciplinary Action Taken.

Officer of the deck of "*B*" and the captain of "*A*" tried by courtmartial for negligence.

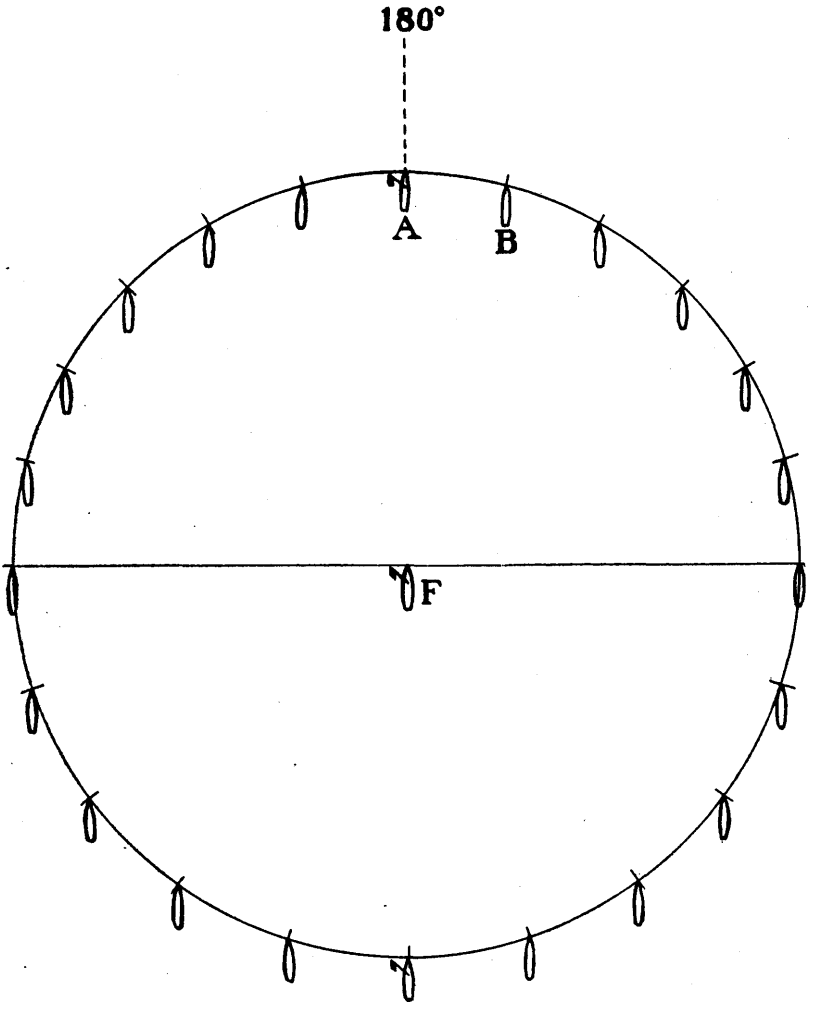

Fig. 1
Formation at Midnight

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COLLISION CASE NO. II

A destroyer force, 22 destroyers with a light cruiser as flagship, was engaged in night tactical exercises. These exercises were being conducted under the procedure prescribed by a recently issued signal book.

The formation was a circular screen with the flagship in the center, acting as the force screened. The destroyers, two squadrons, were deployed on a circle of 1 mile radius from the flag. The squadron, 13 destroyers, in the leading semicircle, had the destroyers equally spaced, distance between ships 550 yards. The other squadron, nine destroyers, in the rear semicircle. (See fig. 1.)

The weather was clear, night dark, visibility good, wind south, force 1–2, sea smooth. Course of formation 180° true, speed 10 knots.

Destroyer "*A*," guide and squadron flag of the leading squadron, bore 180° true from the force guide. Destroyer "*B*" bore 203° true from force flag. At 2322 the signal "Discontinue darken ship" was sent. Running lights were turned on.

At 0029 the flag called the force by yardarm blinker and radio, sending the signal "**Corpen 18 Unit.**" Believing that all ships had acknowledged, the signal of execution was sent by both methods at 0030.

On "*A*" the commanding officer had the con and was standing on the starboard side of the bridge. The signal of execution was received at 0030. The command "**Right 15° rudder,**" was given and the ship's head began to swing. One short blast was sounded on the whistle.

When "*A's*" head had swung through about 70°, "*B*" was seen broad on the starboard bow, distant about 350 yards, approaching on a dangerously converging course. "B" did not appear to be swinging. "*A's*" captain immediately gave the order, "**Left full rudder, full speed astern both engines.**" "Emergency full speed astern" was given immediately. Three blasts on the whistle were sounded. "Collision quarters" were sounded with the accompanying long blast on the siren.

At 0025, "*B*" was out of position in reference to "*A*." She was steering 177° and was inside her distance and behind her bearing.

Testimony at the subsequent court of inquiry was to the effect that "*A*" bore 105° true, distant 400 to 500 yards.

At 0029 the signalman of the watch reported to the officer of the deck of "*B*" that the signal "**Corpen 185,**" had been received. He also said, "**I am not sure of this.**" The radio signal was not received by the officer of the deck. (See fig. 2.)

The signal of execution was received by "*B*" at 0030. The officer of the deck gave the order, "**Right 15° rudder, course 185° true.**" He told the signalman to verify the signal. He later stated that he had heard "*A*" sound one blast on her whistle, indicating that she had changed her course to starboard.

The captain of "*B*," who was sleeping in the emergency cabin, was called personally by the officer of the deck. On coming on the bridge he looked to starboard to see if all was clear and then started for the port wing of the bridge. As he passed back of the helmsman he saw "*A*" about 300 yards on his port bow and crossing. He gave the order, "**Hard right rudder, full speed astern.**" This was immediately followed by the order, "**Emergency full astern.**" He sounded collision quarters, the long blast on the siren and three blasts on the whistle. (See fig. 3.)

Fig. 2.

Position of A, B & F at 0030
A & F changing course to 0°
B changing to 185°

About a minute later, or at 0034, "*B*" rammed "*A*," striking her just forward of the bridge at an angle of about 40° abaft the beam. "*B's*" heading at the instant of collision was about 220° true. Her estimated speed through the water was 4–6 knots. "*A*" was practically dead in the water.

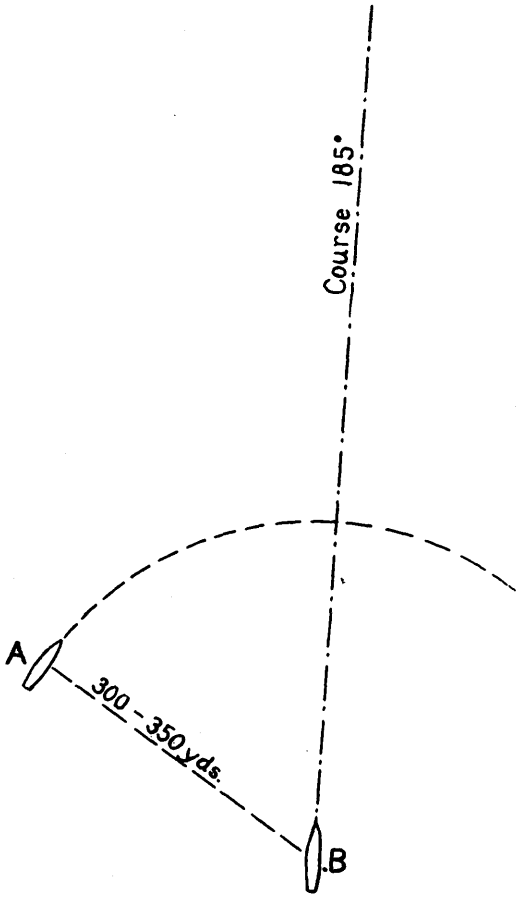


Fig. 3.

Situation at 0033

At the subsequent court of inquiry the following facts were brought out:

"*A*" was steaming under two boilers with two blowers running, "*B*" under two boilers with one blower. Both ships had proper lookouts stationed.

The testimony of the officers and men of "*A*" was as follows:

The captain and officer of the deck were observing the maneuvering of the ships to starboard. The running lights were seen. As the

turn was made particular attention was given to the next ship. Her running lights did not seem to be changing in position or relative bearing, nor could it be discerned whether or not she was turning. There was no range effect of the lights noticed, and only when the hull was seen was the fact that "*B*" was not turning ascertained.

To justify the maneuver undertaken at the last moment, the captain of "*A*" stated that it was impossible to pass under "*B's*" stern by [illegible] short, or to go ahead of her by going emergency full ahead. And to quote, "He ('*A's*' captain) believed if '*B*' had started to maneuver at approximately the same time as '*A*' backed with left rudder, '*B*' backing and turning right, a collision would have been prevented or at least a side swipe. As a matter of fact this was nearly the result."

The officers on both of the destroyers testified that the hulls were visible for about 500 yards when running darkened. That when the running lights were turned on the distance at which the hulls could be seen was markedly reduced. There was some dissension as to this statement.

The testimony of "*B's*" witnesses was as follows:

No acknowledgment of the signal was sent by "*B*" nor was the signal of interrogation made by her. The correct signal was intercepted by the signalman on the repeat back of the squadron leader to the flag. After its receipt he sung out the correct signal, but made no attempt to see if the officer of the deck received or understood it. This signal was not reduced to writing, nor did the officer of the deck acknowledge receiving it.

The single blast on the whistle sounded by "*A*" was heard. This made him doubtful as to the correctness of the signal as reported to him. The squadron policy was to never blow a whistle signal for a change of course of less than 10°. He further attempted to verify the signal by the maneuvers of the destroyers to his starboard. He could not make out what they were doing.

He received the signal by hearing it being read to the recorder by the man receiving. He did not receive it from the radio room and he made no attempt to ascertain if it had been received by that method. The tactical instructions required that all tactical signals be sent by both methods.

The fact that the signal was acknowledged by all ships present was dwelt on strongly by the court of inquiry. There was no satisfactory evidence adduced to show that all had acknowledged this signal.

The testimony showed that there was considerable misunderstanding in the force as to the method to be used in acknowledging a signal. Also, no ship is recorded as asking for a repeat of this signal.

The procedure used in this squadron for a change of course was to make the general call on radio and blinker, and, when answered by

all ships, the signal for the change would be sent. At the end of the signal send $\overline{AR}$. All ships to acknowledge directly to the flag by sending $\overline{AR}$. The flag on receiving the acknowledgment would send the "Execute." This was the method for blinker signals. Signals by radio were to be acknowledged by the squadron commanders only.

Usually the fact that the signal was, or was not, received by the ships was ascertained by a signalman on each wing of the bridge singing out that those on his side had acknowledged. The flag lieutenant who was generally on the bridge during maneuvers also checked up, as did the signal officer. There was no actual check of the ships by name made or any other method used that insured absolute accuracy.

The flag personnel stated that they believed that the signal was received by all the ships before the signal of execution was sent.

The radio records showed that the signal was acknowledged for by both squadron commanders. The force radio officer stated: "An efficient radio watch is assigned on the frequencies used in transmitting tactical signals. With the number of units in the force to obtain a receipt from each individual vessel would require a great deal of time, and if the receipts were obtained from the squadron commander of each squadron, the flag considered that all other ships present should have received the signal. A vessel not receiving a signal should immediately send an interrogatory to either his particular squadron commander or to the force commander. In the event of the reception of a receipt from both squadron commanders and the nonreceipt of an interrogatory from any vessel in the command, the flagship assumes that the tactical signal has been received by all the vessels concerned."

The court of inquiry found the following facts established:

(*a*) That "*A*" should have borne 110° distance 560 yards from "*B*."

(*b*) That there were no range lights supplied to either destroyer.

(*c*) That the officers of both ships did not realize the danger of collision existed until the shape of the hulls could be seen.

(*d*) That as soon as this danger was realized immediate steps were taken to avert the accident.

(*e*) That proper personnel were on watch on the bridges.

The court stated its opinion as follows:

(*a*) That the signal was acknowledged by "*B*," although there is evidence to the contrary.

(*b*) That the officer of the deck of "*B*" executed what he believed to be the correct signal.

(*c*) That if the destroyers had had range lights, risk of collision would have been materially reduced.

(*d*) That the collision was primarily the result of inattention on the part of the officer of the deck of "*B*" and the inefficient performance of duty by the signalman.

(*e*) That the officer of the deck of "*A*" (her captain) was also responsible, but to a lesser degree, because of the difficulty in estimating the change of direction of a ship without a range light.

(*f*) That in making simultaneous turns the outboard destroyers should keep clear of the inboard destroyers.

The court of inquiry recommended:

That the officer of the deck of "*B*" be tried by court-martial for neglect of duty, and that the signalman be tried for neglect and inefficiency in the performance of his duties.

The Navy Department ordered courts-martial on the captain of "*A*" and the officer of the deck of "*B*" for neglect of duty. They were both acquitted, but the findings were disapproved as not in accordance with the evidence adduced.

As a result of the question as to the applicability of the Rules of the Road to the handling of ships in formation, the following is the substance of a letter of the Chief of Naval Operations:

When vessels in formation are maneuvered by signal of the senior officer present or unit commander, commanding officers are prohibited from performing independent evolutions except such as are necessary for safety and maintaining correct position. The Tactical Instructions were written with due regard for the principles laid down in the International Rules of the Road for the prevention of collision at sea, and maneuvering in formation is governed by these instructions. These maneuvers are so designed that if ships are in and maintain position and speed, the proper execution of the signal will be free from danger. The Rules of the Road do not apply to vessels in the formation or the same force carrying out these maneuvers.

Vessels are, of course, always under a duty to maintain a strict and vigilant lookout and to take proper action in any emergency, in accordance with the sound judgment required under the General Prudential Rule for vessels when danger of collision is imminent.

Where a dangerous situation is brought about by the incorrect interpretation or execution of a signal by a ship, that ship can not avoid responsibility and rely on the Rules of the Road.

In taking up a formation from a general disorder, etc., the Rules of the Road apply until ships have taken their position. Between ships in position and those not yet in, the Tactical Instructions, not the Rules of the Road, apply.

COLLISION CASE NO. III

Principal Points Involved.

1. Use of Coast Pilots and Harbor Regulations.
2. Knowledge of waters being traveled.
3. The necessity for pilots in unfamiliar waters.

Facts Found by Board of Investigation.

1. Primary cause of collision was lack of knowledge of currents.
2. Captain failed to use engines soon enough.

Letter of reprimand given to captain by department for inefficiency in performance of his duty.

COLLISION CASE NO. III

A destroyer moored to Pier 15 at Balboa, Canal Zone, had orders to refuel. These orders were to proceed to Pier 4 at 0900, March 25, 1927. All preparations were made and the ship was ready to get under way prior to 0850. The weather was fair, wind north, force 3. The tide was running ebb, and had been for about an hour.

The destroyer cast off from Pier 15 at 0850 and proceeded out of the basin under two boilers. She had steam for 20 knots and standard speed was 15. Prior to getting under way all preparations had been made to go alongside the oil dock starboard side to.

The captain was at the con and the crew at their stations for mooring. There was no pilot on board. As the destroyer stood into the channel rounding Pier 5 she sighted a steamer. This steamer was standing up the channel and distant about a mile.

The captain of the destroyer saw Oil Crib No. 1 and mistook it for the dock he had been directed to oil from. He decided to turn in the channel ahead of the approaching steamer. This, rather than lie to and wait for her to pass. Oil Crib No. 1 is on the east side of the channel. The channel has a safe maneuvering width of about 100 yards, except abreast of these cribs where it is 200 yards.

When the oil crib was abeam, the turn was started. The destroyer sounded two blasts on her whistle and they were answered by the approaching steamer. The steamer was making about 8 to 10 knots and was distant about 500 yards.

The engines and rudder were used as follows in making the turn: Left full rudder, back one-third port engine, starboard ahead two-thirds. Then, as the destroyer approached the crib, it was seen that she was not turning fast enough, so the order **" Back two-thirds on the port engine "** was given. This did not seem to make her swing fast enough, so the captain gave the order **" Back full both engines."** About 30 seconds later the destroyer rammed the crib at a speed of about 1 to 3 knots.

The destroyer hit the face of the crib at an angle of 60°, doing considerable damage to both the crib and the ship.

As a result, an investigation was ordered, and the following pertinent points were brought out in the evidence:

The canal regulations require that a pilot must be on board every ship when it is under way in Canal Waters, except in a few instances.

This fact did not appear to be understood by the commanding officer of the destroyer. These regulations are also published in the Mexican and Central American Pilot.

Arrangements for shifting berth, oiling, etc., must be made through the port captain.

Anchoring in the canal or channels is forbidden, except in emergencies.

For naval vessels fuel is arranged for through the district supply officer.

The Central American Pilot gives excellent information relative to tidal currents, etc., that may be experienced at all stages of the tide and with different weather conditions. In general, the strongest current velocities are observed in the channel along the reloader wharf and in the vicinity of the oil cribs. Northerly winds tend to accelerate the surface currents of ebb tides and to retard those of flood tides. In the Balboa Channel the stronger tidal currents flow approximately parallel to the course of the channel.

Notable exceptions are found in the steady set of the ebb: (*a*) Toward the upper end of the reloader wharf; (*b*) the set across the canal toward the oil crib, this at an acute angle; (*c*) the set following the course of the dredged channel of the old French canal.

The tidal currents at the oil crib set diagonally across the channel; ebb tides set approaching ships on; flood tides set them off or away from the crib.

The captain failed to obtain information as to the exact location of Pier 4. Not knowing the currents, etc., he considered it perfectly feasible to turn in the channel with a full ebb tide running.

A canal pilot had been directed to take the destroyer to the pier, but, due to her leaving before his arrival, did not get to the destroyer until after the accident had occurred.

The board found the following facts:

That the destroyer proceeded without a canal pilot.

That the exact location of Pier 4 was not known.

That the tide was ebbing at the rate of about 2–3 knots per hour and that the wind was North force 2–3.

That both engines were not backed until the destroyer was but 75 feet from the face of the crib.

That the tidal conditions at the time of the accident were such that the destroyer was set onto the face of the crib at a rate of 1 to 1½ knots.

That the safe maneuvering width of the channel was but 500 feet.

That the commanding officer made a hurried decision to turn quickly ahead of the approaching steamer.

That the turn upstream was in the face of the wind and tide in a confined space.

The opinion of the board was as follows:

That the commanding officer failed to take into consideration the strength and set of the tide while approaching the oil crib.

That the commanding officer is responsible, in that he did not check the speed in sufficient time to prevent hitting the crib.

The findings were approved by the convening authority and the reviewing authority. The Bureau of Navigation directed that a letter of reprimand be sent to the commanding officer for neglect of duty.

COLLISION CASE NO. IV

Principal Points Involved.

(*a*) Duties of the officer of the deck on sighting a light.
(*b*) Duties of the officer of the deck when ships are approaching each other with or without risk of collision.
(*c*) Rules of the Road, articles 18, 19, 21, 22, 27, and 28.

Findings of the Court of Inquiry.

(*a*) The steamer was at fault and primarily and solely liable.
(*b*) No blame attached to the U. S. S. *Wren* for collision.
(*c*) Officer of the deck of the destroyer to blame for neglect of his duty in not informing the captain of change of course of approaching steamer.

The Government sued the owners for damages; the owners filed a countersuit.

The district court held that both ships were at fault and decreed that this was a case for half damage. The destroyer was held at fault as well as the steamer.

Decision of court quoted, as well as extracts from decisions of the Federal and Supreme Courts, showing the judicial interpretation of the Rules of the Road involved.

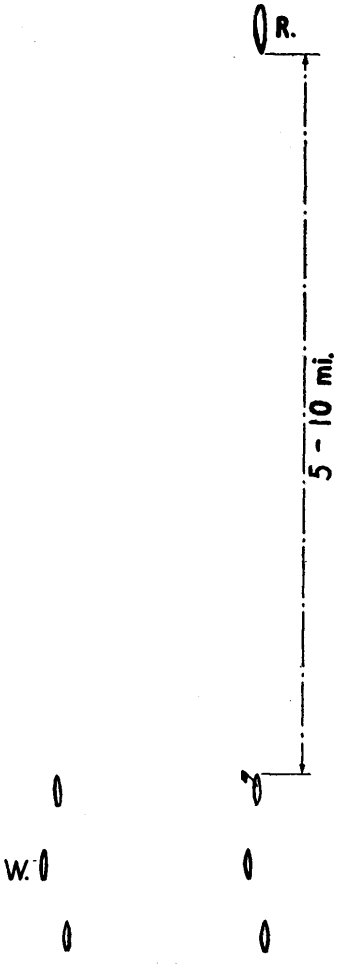


Fig. 1.

Position when lights were first seen at 0038 - Zone + 5 time. Destroyers course 302° true. Robin's course 119° true.

COLLISION CASE NO. IV

A division of six destroyers was proceeding in formation from Balboa, Canal Zone, to La Union, Salvador, in February, 19—. The division was in the open sea with land 20 miles to the eastward. Standard speed 18 knots, course 302° true. The weather on the night of February 25–26 was clear and fair, sea smooth, light airs from the northeast, with bright moonlight. The formation was line of sections, sections column open order, guide right. The interval was 2,000 yards, distance variable at the discretion of individual commanding officers at between 300 and 600 yards.

At about 0038 the guide of the formation sighted the lights of a steamer dead ahead. This light was reported to the captains of all the destroyers by the officers of the deck, except to the captain of the leader of the second section. The estimate made by all the officers of the deck of the destroyers put the course of the steamer at within 5° of their reverse course.

The steamship *Robin*, a cargo boat of 12,000 tons, was proceeding on the course 119° true at a speed of 12½ knots. She was keeping meridian time.

THE ACCIDENT AS SEEN BY THE STEAMSHIP "ROBIN"

The officer of the watch on this steamer sighted the lights of the approaching destroyers at 2350. This time was ship's time and corresponded to 0038 zone 5 time. He did not report the sighting of these lights to his captain. Ten minutes later he was relieved by the officer having the midwatch. The lights as first sighted on the steamer were:

One white light dead ahead.

A white light about half a point on the port bow.

The lights sighted were reported to the master at 0010 ship's time.

At the time these lights were reported to the master, the following were in sight:

One white light dead ahead.

One white light and a red side light on the port bow.

One white light astern of the lights on the port bow.

The report as made to the master was, **"The whole U. S. Navy is ahead."** Almost immediately after receiving this report the master came onto the bridge. The evidence at the subsequent court of inquiry showed that the following lights were then in sight:

The masthead and both side lights of one ship almost dead ahead to very slightly on the port bow.

The masthead and green side lights of two ships on the starboard bow, and in addition the masthead lights of several other ships astern.

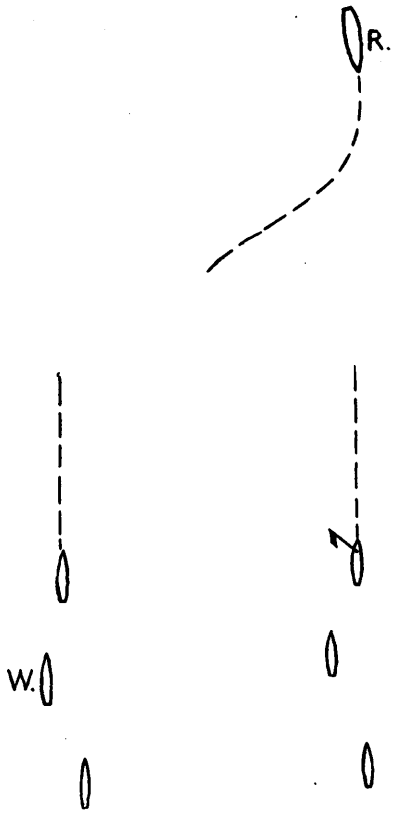


Fig. 2.

Approximate positions when Robin put her rudder right.

On his arrival on the bridge the master changed the course, giving the order **"Hard aport"** (right full rudder). Prior to giving this order he took no bearings nor asked any questions as to bearings, or change of bearings, of the approaching lights.

The command "**Steady**" was given when the ship's head had swung through about 64°. The helmsman on receiving the order "**Steady**" looked at the compass and noted that it read 175° p. s. c. (183° true). The helm was then shifted and the ship steadied as soon as possible on this course. The time of this order was not taken.

The master next gave the order "**Hard astarboard**" (full left). (See fig. 2.) Then as the ship approached close to the destroyer, "**Stop.**" Almost immediately after this last order the steamer struck the second destroyer in the second or left section.

THE ACCIDENT AS SEEN BY THE DESTROYER DIVISION

After setting the course 302° true early in the evening of February 25 no change of course or speed was made at any time. Position was being maintained by the destroyers with reasonable accuracy.

At 0038 the lights of the steamer were sighted by the guide and also by the others at approximately the same time.

The officer of the deck of all the destroyers took bearings of the light when it was sighted. According to their testimony at the subsequent court of inquiry, this light appeared to be on a vessel on a course approximately the reverse of theirs. A bright and sharp lookout was kept and the changes of course made by the steamer were quickly detected.

The first lights seen by the officer of the deck of the guide were the masthead and the range lights. Later, as the steamer approached, the green side light was seen. As the change of course was made by the steamer, both the red and the green side lights were seen, then the green was obscured. All possible means of ascertaining the bearing and change of course were used.

The steamer was seen to stand across the guide's bow from starboard to port. This necessitated crossing the course of the oncoming formation.

The testimony of the witnesses of all the other destroyers was to the same general effect.

AS SEEN BY THE U. S. S. "WREN"

The position of the second destroyer of the second section, the U. S. S. *Wren*, was 400 to 500 yards astern and slightly on the port quarter of the section leader. A white light was first sighted by this destroyer. Later the green side light was seen. These lights were seen across the bow of the section leader, their distance away being estimated at 10 miles. The relative bearing was about one point on the starboard bow.

The original sighting of this light was reported to the captain, but the subsequent change of course of this ship and her near approach was not reported.

This steamer apparently held her course for about 20 minutes. Her range lights were open to the right and only her green side light was seen by all the ships in the division. At the end of this time the lights appeared aft of the section leader.

About 0100 the officer of the deck of *Wren* noted a change in the relative position of the range lights of the steamer and realized that she was changing course to her starboard. It was believed that the steamer's intention was to stand down through the lane of water between the sections. But as the steamer continued to swing it was seen that this was not going to be attempted. The *Wren's* officer of the deck observed the steamer's range lights close, and then

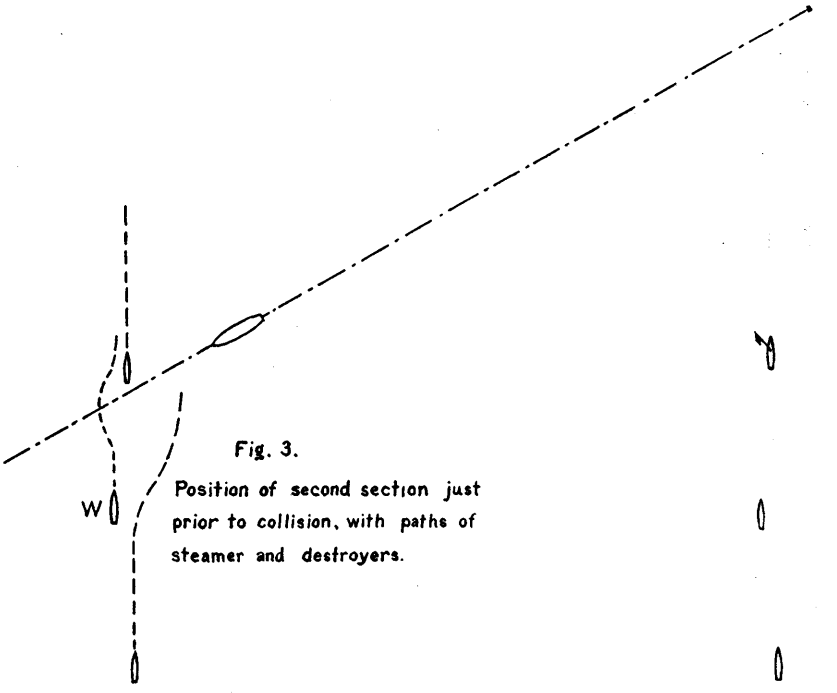


Fig. 3.

Position of second section just prior to collision, with paths of steamer and destroyers.

the side lights open. Both side lights continued to be seen, though from his testimony he expected to see the red one shut out and the steamer swing down through the lane between the two sections. The range lights were in line, and both side lights were seen until the steamer was well past the middle of the lane.

At this point the green light was shut out, and it appeared that the steamer was going to try to pass ahead of the section.

The destroyer astern of *Wren* saw only the red light at all times after the steamer first changed course. This destroyer's position in reference to *Wren* was about 300 yards astern and 100 yards to starboard. The section leader saw only the green light up to within two minutes of the collision, when the red light was seen momentarily.

The officer of the deck of *Wren*, when he saw the green light obscured, stopped his engines and rang **"Full speed astern all engines."** The order had hardly been sent to the engine room when the range lights were seen to close again and the steamer headed directly for him. He realized that with the engines going full astern he would be directly in the course of the steamer. **"Full speed ahead"** was immediately rung up and the attempt made to pass ahead. (Fig. 3.)

As it appeared, the steamer was steering a course that would pass directly astern of the leader of the second section. And as the destroyer passed ahead about 300 yards the steamer started to swing toward the oncoming *Wren*, the second boat of the section. The bow of *Wren* passed clear of the steamer, and as it passed the officer of the deck gave the command **"Hard right,"** attempting to swing the stern clear and away from the oncoming steamer.

The steamer, at 0118, hit the destroyer on the starboard quarter about 30 feet from the stern and ripped her side open. The stern immediately sank below the water, and about five hours later the ship sank.

The third destroyer of the second section, as she saw the steamer approach, went full astern and gave hard right rudder, passing about 300 yards astern of the steamer.

As a result of this sinking a court of inquiry was ordered, and at this court several points were brought out.

The master of this steamer testified that as soon as he arrived on the bridge he immediately, without sizing up the situation, ordered **"Hard aport"** (full right rudder). The following statement seems to furnish a very clear idea of why the master acted as he did and the attitude of some masters toward naval and other vessels:

"In this proceeding you realize that I am one ship—approaching, what seemed to me, a mass of destroyers. I could not tell any formation from my ship or what they were doing. From my knowledge of destroyers, when in formation, you can not tell when they are going to alter course, if they are in maneuvers. And when approaching destroyers, there is no method known to myself whereby I can tell that they are going on one course or whether they are maneuvering. From previous talks which I have had with commanders of destroyers, who have been friends of mine, I have discussed this same problem with them, of a merchant vessel approaching a fleet of destroyers. They told me: When I sighted the destroyers, to place my ship in a position where they could readily see what I was doing, and to hold my course and speed, and trust to them, as they were watching me and my every movement, and would

take every precaution to clear me. That, although they might come very close to me, I was not to be afraid, that they could handle their ships and could do anything they required with them.

"This, gentlemen, is my position. When I was called on the bridge after midnight by the second officer, he informed me that a big fleet of naval vessels were ahead and a little on each bow, coming toward us. I came on the bridge; I looked at them and saw a mass of lights. From my observation of them first I could not tell that they were in any formation at all. I said, '**Well, the first thing to do with destroyers is to keep clear as far as you can of them. Port your helm.**' I never attempt to go through any formations of destroyers.

"I might state, that the course, when I took the bridge, was 119° true. When I steadied the ship on the port helm, she was 183° true. I then maintained that course and speed. In altering this course, this brought all the destroyers on my port side. When I altered the course, I did not blow the whistle, as I considered I was 5 or 6 miles from the destroyers and too far away for the whistle to be heard.

"I watched the vessels approaching and saw the leading ship cross my bow by about 300 feet, clearance. When I saw that they were going to continue to cross the bow, I put the engine at '**stop.**' I was watching the second destroyer. I said to the second officer, '**Surely he will not attempt to cross the bow.**' When this destroyer, I should think, was about 300 yards from the ship—but it might have been less or it might have been more; you can not tell the exact distance in the dark—she seemed, as it were, to hesitate as to what she was going to do. Then I heard the speeding up of the turbines, and the ship shoot ahead to cross the bow. I then said to the officer, '**Great Scott! She is going to attempt it. Hard starboard.**' The officer said, '**Did you say "Hard starboard?"**'. I said, '**Yes.**' There was not sufficient time to turn the helm one turn of the spokes before the other ship struck."

(The master's information relative to handling of destroyers was obtained from British and German officers.)

The master, who had been a master of vessels for 14 years, judged that he was 5–6 miles away from the destroyers when he went hard right. But the actual distance was probably much less than that. Using the time (10 minutes) between the changing of the course and the collision, and taking the combined speeds (32 knots), the distance works out as about 2½ miles.

The master saw the lights as being a little on each bow and distributed over a large area. He testified that his understanding of the

International Rules of the Road, concerning the method of determining whether danger of collision exists between crossing vessels, was as follows:

"With crossing vessels with another merchant ship, I would look out for compass bearings. But bear in mind my previous statement as to the relative positions and the relative handiness of destroyers and of merchant vessels. I would place my dependence on my previous knowledge of what destroyer men have done with their vessels. I have never at any time had the least doubt of any destroyer being able to maneuver around any ship that I have been in, in any manner he wished. I have seen them go from port to starboard and from starboard to port and around the stern and in all directions, and I never gave a moment's thought to any risk, considering their superior speed and ability to handle them."

Further testimony of the master with regard to the Rules of the Road are as follows:

"Q. In the last reply you mentioned the superior speed and ability to handle which destroyers possess. Do you consider that these maneuvering advantages of destroyers are in any way affected by the fact that there are a number of them in company at a close distance?

"A. No.

"Q. You have stated that the fact that destroyers are in close company does not affect their maneuvering ability?

"A. No, sir.

"Q. Do you mean that you did not state that, or that you do not believe it?

"A. I do not believe it. I believe that in any formation destroyers have the maneuvering ability; as the saying is, 'A destroyer can turn around on the size of a penny.'"

Proceeding, the master testified, "I could not see the ships distinctly to judge what course they were making, and even when I saw them I could not judge their course." He stated he believed his course was heading "straight into them, that bringing my red light visible to all the destroyers, and bringing all the destroyers on my port side, from broad on the bow, I should say about 4 points to about 6 points."

"Q. Would it then be true, in your opinion, that the responsibilities of one destroyer toward another, in formation, due to the Rules of the Road, would be the same as those between merchant vessels due to the Rules of the Road?

"A. It is according to what maneuvers the destroyers were doing. As I understand it, when destroyers are maneuvering they are liable to break all Rules of the Road. The rule that governs the destroyer

then is the commanding officer of the flotilla, or whoever governs the maneuvers of the ships.

"Q. Upon what do you base that opinion, Captain?

"A. Well, from seeing destroyers maneuvering, destroyers maneuvering on practice for war, when a vessel is out where there are no Rules of the Road the vessel must do whatever she thinks is right to get into action. Destroyers maneuver, or naval vessels maneuver under these conditions, so that a rule of the road to them does not amount to anything.

"Q. You state that the Rules of the Road do not amount to anything. Do you mean legally it amounts to nothing?

"A. Among themselves; what I mean is, between destroyers, themselves maneuvering under orders, that is what I would assume it means, although I am not absolutely sure, because I have not been in the Navy and have not been in command of destroyers, and do not know of the procedures of the regular Navy. I would assume that naval vessels, maneuvering in peace maneuvers, maneuver the same as they would do at war, and the vessel at war can not take notice of any rule of the road when he is going into action or maneuvering around my ship."

The master at no time seemed to realize that the destroyers were in formation but regarded them as just a mass of ships, nor did he accurately estimate their course, individually or collectively. He simply made a rough estimate and considered that they were proceeding to the southwest.

Continuing the testimony of the master:

"Q. When you went on the bridge and saw the lights, as you testified, on both bows, did you consider it your obligation to turn to course 183, or were there other alternatives open to you under the International Rules of the Road?

"A. There were no alternatives open to me, only to port. As I have previously stated, I would not have considered myself as a competent master to have attempted to enter the destroyers' formation, and I considered, when I altered the course to 183 and brought all the destroyers on my port side, that I had placed my ship on a safe course, as the approaching destroyers could see my two masthead lights and my red light perfectly; that I would be pretty well at a right angle to their course, and they could then calculate what speed I was traveling and what was their best maneuver in order to pass clear of the ship."

The court of inquiry and counsel had the following discussion relative to status of the master and his counsel:

"It is true that the owners of the steamer are interested parties and that there is an obligation resting on the court of inquiry to

assure to all interested parties due opportunity for proper representation. Were the owners not represented at the present time, or were their representation at the present time less than a proper and competent representation, the court would feel that it was its obligation to grant the request for postponement and would so rule. It is the court's understanding, however, that the master of the *Robin* is present in a double capacity, namely, not only as an interested party in his own person, but also as the representative of the owners in their conceded status as interested parties. The court believes that the master of the ship is the universally recognized proper representative of the ship's owners under circumstances similar to those now existing.

"The master of the steamer is now provided with the assistance of counsel requested by him at the initiation of proceedings.

"The court regrets that as a matter of courtesy it is not at liberty to grant postponement requested. Other obligations resting upon the naval vessels here present for the particular purposes of the inquiry, as well as the possible interests of other interested parties, preclude such action on the court's part, as a matter of courtesy only.

"The court will proceed with the inquiry."

Counsel for the master addressed the court as follows:

"I would like to make a very brief statement in this record in order to clear up the record of an ambiguity in regard to my position with reference to this case. My understanding as to my position here is, that I am counsel for the master and second officer. The agent, when he asked me to appear here yesterday, told me that both the master and second officer had been cited to appear before a court of inquiry, and that he desired me to represent them in connection with this inquiry.

"If I have by any act or omission on my part indicated in any way that I represent the owners, I may very frankly state that I have no authority from the owners or from the master of the ship himself to represent the owners interested in connection with these proceedings. I may add that, as a matter of fact, I didn't know who the owners were until a few minutes ago."

The PRESIDENT. "The court would, in answer to the statement just made by counsel for the master, record its understanding that the master of a vessel can not divest himself of his identity and responsibility as the agent of the owners of his vessel. The master is so regarded by this court. The court adheres to its decision."

The master, an interested party, made the following statement:

"I do not understand that the position of the master of a ship is that he is the legal representative of the owners in any proceedings.

I am representative of the owners in business transactions only, not in legal matters. And where the legal interests of the owners are vitally concerned I think—and this is my own personal opinion—that they should have a legal representative."

The PRESIDENT: "As previously stated, it is the understanding of the court that the master of a ship can not divest himself of his identity and responsibility as the representative of his owners. The court does not believe, and has not stated, that the master of a ship is the legal representative of its owners; but it does believe, and now states, that it holds him to be the representative of its owners in admiralty matters and in such matters as those with which this court is now concerned in such sense that he, as the owners' representative, will produce whatever legal assistance is needed in matters touching those interests of his company which he, the master of the ship, is understood by this court to represent. It was the understanding of the court that when the court served notice upon the master to the effect that he was an interested party in the matter under inquiry that the master would recognize the circumstance that his interests in the premises were not only his personal interests with regard to matters represented by his master's license, but also the owner's interests in the matter of property damage—from which interests of the owners, in the court's understanding, the master can not absolve himself. The court begs to inform all interested parties that additional counsel may be introduced at any time when requested and available. Unless there is new matter introduced on this, the court will proceed with the inquiry."

The court of inquiry found the following facts established:

(*a*) That the *Robin* and the destroyer division were approaching each other on opposite and nearly parallel courses in the usual lane of steamship traffic.

(*b*) That the course of the *Robin* on the one hand and the *Wren* on the other were 3° from the exact reverse of each other; the difference being a divergence in the case of the *Robin's* course of 3° in the direction of the neighboring shore line.

(*c*) That at 0012 the steamer's rudder was put "**hard right**" and her head swung to the right. This action was taken in obedience to the orders of the master, approximately at the time or moment of his reaching the bridge, in response to the first notification of the approaching lights.

(*d*) That neither of the officers of the watch made any change in the course or speed of the *Robin*.

(*e*) That neither the watch officers nor the master took any compass or relative bearings of the approaching lights. That the master did not ask for any information after receiving the report from the officer of the watch that **"the whole U. S. Navy is ahead."**

(*f*) That none of the destroyers could see the red side light of the steamer prior to her changing her course. That the *Robin* could see only the masthead and green side lights of the destroyers in the second section.

(*g*) That the original course of the *Robin* lay well clear of the entire approaching division, and that the course converged at an angle of 61° after the change made by the *Robin*.

(*h*) That the turn of the *Robin* to her right put her on the starboard bow of all the destroyers, leaving them in doubt as to her subsequent movements.

(*i*) That neither the *Robin* nor any of the destroyers used any whistle signal prior to the collision to indicate any change of course or intention.

The court found as its opinion:

That the nearness of land had nothing to do with the possible movements of the approaching ships.

That the maintenance of course and speed by the destroyers from the time of sighting the *Robin* and the time of her changing her course was correct procedure and sustained by the Rules of the Road.

That a maneuver under port helm, with a view to passing the entire destroyer formation on her own port side, might conceivably have been justifiable at an early moment following the first sighting of the destroyers' lights, but that this justification had disappeared by the time the maneuver was undertaken.

That the steamer's failure during the period of approach to take action or to make observations upon which to base action was a contributory cause of the accident.

That the master's action in porting his helm without knowledge of whether or not this change of course would induce, increase, or diminish the danger was at fault, as were the actions of the officers of the watch in not having determined this as required by the Rules of the Road.

That the master's interpretation of the Rules of the Road was that, in the situation that existed at the moment he reached the bridge, he could, by showing his port or red light, place the burden of avoiding a collision on all the vessels then in sight,

including not only those whose red and green lights he saw but also those whose green side lights only were visible. That the maneuver into which the master was led by this understanding of the rules was the direct or approximate cause of the collision.

That the first section was in the position of passing vessels, and that the master failed to recognize the fact that the rule of the passing vessel was binding on him.

That the master, by porting his helm deliberately, introduced a risk of collision which as far as the second section was concerned had not previously existed. That in so doing he acted upon an assumption of special privilege, premised upon his conception of the superior maneuvering qualities of destroyers relative to those of the *Robin*.

That the officer of the deck of the *Wren* did not fail to recognize the obligations of his ship, that regardless of their station information he was responsible for the safe conduct of his ship.

That the *Robin's* initial fault in changing course from 119° to 183° true was progressive, and continued up to the point of collision.

That the officer of the deck of the *Wren* was vigilant in his efforts to analyze the maneuvers of the *Robin*, on the assumption that the latter would act intelligently and would afford reasonable and timely evidence of her intentions; and that he was not guided by blind adherence to any rule of the road nor constrained by any misconception incident to the circumstances that his vessel was in a naval formation, but was on the alert to take prompt action, according to his best ability, skill, and judgment, appropriate to the maneuvers of the approaching vessel, however faulty and hazardous such maneuvers, when they took shape sufficiently definite for his guidance might prove to be.

That this officer of the deck was not negligent, and that no omission on the part of the *Wren* can be taken as contributory negligence.

That no blame, other than in a disciplinary sense, attaches to anyone on the *Wren*.

That the *Robin* is solely responsible for the accident, and that the owners of the vessel are responsible for all damages and loss incurred.

The court recommended that a letter of reprimand be given to the officer of the deck of the *Wren* for failing to report to the com-

manding officer, as required by good practice and judgment, the change of course of the vessel whose lights had been sighted and that a risk of collision was developing.

The reviewing authority held:

It is the opinion of the Force Commander that the fault for the collision rests with the "Robin" entirely and that the liability for the same rests with the owners. However, while no legal fault rests with the "Wren" or any ship of the division, the Force Commander can not overlook the failure of the officer of the deck of the "Wren" in not calling his commanding officer and his unseamanlike performance in holding onto his course too long when in doubt, and not ringing up reserve speed in ample time to swing his ship smoothly to the left out of danger.

This case was later taken up in the Federal District Court of New York, and the opinion of the district judge handed down was as follows:

"The naval court of inquiry held that the steamer was solely responsible for the accident. That the destroyer was not guilty of contributory negligence. That blame in a disciplinary sense attaches to the officer of the deck of the destroyer for failure to report change of course, and blame to the officer of the deck of the section leader for failure to report the lights of the steamer.

"If a man intends to navigate with reference to a fleet (as well as a single ship), the first question is, Where was he when he saw the fleet and began to think about it?

"The testimony as to the bearing of the *Robin* from the destroyers when her lights were first seen is too consistent, and there is too much of it, to disregard or neglect. I am satisfied that each and all of the destroyers first saw the steamer masthead and range lights on their own starboard bows. Every observer saw a light, and there was just enough difference in the bearings observed by the port division and those taken by the starboard division to make the whole evidence consistent and persuasive.

"But if the steamer was on the starboard bows of all the destroyers and was steering 119, she was, of course, in a position to pass to the starboard of all the destroyers in perfect safety.

"It is quite evident that the steamer did not see the advancing lights of the destroyer division exactly as her own lights were seen, and every navigator is first to be judged by what he himself saw. Upon the whole evidence a master may be shown to have seen wrongly, or failed to see what he ought to have seen. The first question is, "What did the navigator *do* on the basis of what *he* saw?

" What the captain saw, and the inference drawn therefrom by him, he plainly stated thus:

" 'Q. Did you think you were in a head-to-head meeting with the vessel on your port hand?

" 'A. No; but I was close to; the other fellow was coming head-on or nearly head-on.

" 'Q. You thought it was a head-and-head meeting?

" 'A. Nearly.'

" Thus the steamer did not differentiate between the various white lights seen ahead, but considering the situation substantially a 'head-to-head' one, the master, according to his own story, **hard aported** and swung as soon as possible upon course 183, which he thereafter maintained into collision.

" The next inquiry is: How long would it take for the steamer to swing 64°; how far would she travel in so doing, and what speed would she maintain during the operation?

" There is nothing to overset the evidence of a naval constructor that a vessel of this steamer's lines and power at 12 knots would advance not over 2,000 feet in swinging through 70°.

" There is no evidence to show how much would be her transfer in accomplishing this swing. But since all the evidence stresses the ordinary or usual build and capacity of the *Robin*, I unhesitatingly adopt the computations stated in **The Normandie,** 43 Fed., at 159, and find that in swinging to starboard slightly less than 6 points the *Robin* would occupy about two and one-half minutes.

"In making this swing her speed would be diminished, but not as much as 25 per cent because that estimate or computation is based on the turning of a complete circle, whereas in the steamer's case the rudder was amidships again long before she had finished a quadrant. Nothing but actual experiment with the vessel, and probably repeated experiment, could produce perfect accuracy; but the error, if any, is in favor of the steamer in holding as I do that in swinging to starboard the steamer's speed was never diminished below 10 knots.

" If, therefore, the steamer when she swung to starboard was substantially directly ahead of the starboard column of destroyers, she had just 2,000 yards to travel to accomplish what her captain desired, viz: To get into the Pacific Ocean and leave the fleet to its own devices.

" Let it now be assumed that the task the steamer undertook (not that the matter presented itself to the master in just these words) was to keep out of the way of a whole fleet by crossing a lane of water which we now know to have been 2,000 yards wide—starting

from that side of it marked by the starboard column of destroyers. How long should it have taken to cross this lane?

"Taking the master's own computation for estimate, and giving the steamer an average speed of 10 knots from the time her wheel was put aport, it would not have required over seven minutes from the moment the order was given till she was clear of the prolonged line of the port column of destroyers. In a way, this is quite consistent with the captain's own estimate of time, for after reflection he is quite positive that after he had straightened out on course 183 he pursued the same for six minutes and into collision.

"To put the matter now stated in another way, the steamer tried to cross a street 2,000 yards wide on a diagonal line, and she did cross the street in just about seven minutes, but when she got across she ran into the destroyer. So that the next question is: How far had the destroyer traveled in the seven minutes that the steamer occupied in crossing the street?

"There is no doubt at all that the destroyer was traveling steadily at the rate of 1,800 feet a minute, and in seven minutes she traveled 4,200 yards, or slightly over 2 nautical miles.

"But as before noted, the steamer was navigating with reference to the fleet as a whole, and the bare fact that she collided with the destroyer which was fully 500 yards behind the leading boat in the port destroyer column is a demonstration that the steamer began her turn to starboard very much less than 3 nautical miles from the head of the formation. How much less can not be said with absolute certainty, but I regard the testimony of one of the officers of the deck (a most experienced seaman) as important and credible both as to statements of fact and opinion. He saw the steamer cross the course of his own vessel, leading destroyer of the starboard column, and she was then so near that he did not believe she could 'cross the leading destroyer of the port column; and she did cross his course so close that he saw her red light.'

"The result of the foregoing computation is that if the steamer swung to starboard as early as her master thought he did, and had maintained a steady course after his swing and an average speed of 10 knots, he would have crossed the whole lane of water between the destroyer columns before the leading vessel of the port column could have come up to him. But he swung so late, or so slowly, or both, that as he swung and when he swung his colored light was visible to competent observers on some of the vessels at least, with regard to which the steamer was navigating.

"A summary statement of the legal argument for the steamer is this: We admit that we swung to starboard and gave no signal

of our so doing, but when we did so swing we were beyond the statutory range of visibility for colored lights; therefore we could do what we pleased. We are not subject to the rules of navigation until we are within 2 miles of the vessel or vessels with reference to which we are navigating. To this legal argument I will advert again.

"I have hitherto assumed in favor of the steamer that at least the intention to swing was formed at a time when the vessel was substantially in the line of the starboard destroyer column prolonged.

"But by all the evidence, too numerous to require citation, the men on the steamer testified that before they swung they saw a collection of lights ahead covering substantially a point (11¼°) on the horizon, and some of the lights bore slightly on the starboard bow and some on the port. This testimony, if believed, is conclusive evidence that some time before the order **"hard aport"** was given the steamer was in a prolongation of the lane between the destroyer columns. Therefore, the (so to speak) street which she had to cross was for her less than 2,000 yards, and if she swung substantially 6 points *when she did* an average speed of 10 knots would have carried her clear, and far clear of the starboard column before the speed of the vessels in that column would have brought them up. This, of course, is particularly true of the destroyer which had approximately 500 yards more to cover to catch the steamer than did her leading vessel.

"Result is that the foundation of fact upon which the legal argument for the steamer rests seems to me lacking. In my opinion, **the steamer did not actually begin to swing and change her course until she was within just about 2 nautical miles of the head of the destroyer column.**

"But if on this point of fact I am wrong (and it is a close computation), it is beyond all question that when the steamer swung, her red light was plainly visible to competent observers in the destroyer division.

"Under such circumstances, **I hold that the rules of navigation do apply.** The general rule enunciated long ago in **New York, etc., Co.** *v.* **Rumball,** 21 How. 372, has never been departed from. **'Rules of navigation * * * are obligatory upon vessels approaching each other from the time the necessity for precaution begins.'**

"According to the captain's own statement, the situation was emphatically one where the necessity for precaution was apparent. That the destroyers and the steamer were coming together at the rate of 30 knots an hour is of course knowledge after the event; but

it was obvious, and obvious at once, that the master of the steamer intended to cross the bows of an advancing fleet, and a fleet which was known to all men to consist largely of high-speed vessels—a situation requiring more precaution could hardly be imagined.

"Therefore, the proposition that, when navigating, lights are, in fact, seen, whether 2 miles off or more, the rules of navigation may be disregarded, is rejected by me. I do not consider that the trial court is usually the place to indulge in much recapitulation of authority; I have given the principal rule, and deem it applicable here.

"It follows that the steamer was very much in fault for not sounding one whistle upon starboarding, as she undoubtedly did. She was also in fault for not recognizing in time the situation into which she came and failing to go down the lane between the destroyer columns. Her master saw, some time before the collision, that he was between the two columns of naval vessels; he had plenty of time to avoid crossing the course of the port column and should have done so. This is a matter of general good navigation.

"It is to me quite clear that the reason why the master did not go down the lane, as one officer of the deck thought he was going to do, was because he 'had no idea of any danger,' and the reason why there was no danger was the destroyers could go across 'the bow or the stern or anywhere else.' In other words, he relied absolutely on the agility of a class of vessels across the path of a whole column of which he deliberately directed his course.

"It is recognized that violation of the rule regarding blowing one whistle on porting merely casts the burden upon the violator to show that it could not have contributed to disaster. To me it is perfectly clear that if the steamer had blown one blast as she steered across the path of six vessels there would have been no collision.

"It does not seem to me profitable to discuss at length the fault of the destroyer. To me that matter is so clear that it is disposed of by saying that no reason appears why the destroyer should not have done exactly what the following destroyer did.

"That destroyer saw that a vessel was going across her path, obstinately presenting a red light. The rules of navigation admittedly applied, so she changed course so as to go under the stern of the oncoming vessel. I do not think any reason is given showing, or tending to show, why the destroyer that was rammed could not, and should not, have done the same thing."

The decision or judgment of the court was as follows:

"Both vessels are guilty of fault and the decree accordingly will be entered."

This made it a half damage case.

The following decisions of the Federal court are cited for information relative to the situations of crossing ships and the duties of ships, as required by rules 18, 19, 22, 23, 27, and 28:

In the **S51 v. City of Rome,** the court held: "It is the duty of those in charge of the navigation of a vessel, when in doubt of the proximity and navigation of another vessel, to slow or stop, and reverse their engines."

In the **Comus v. Lake Frampton,** 19 Fed. (2d) 774, the court held: "That a ship is at fault for changing course 2 or 3 miles away from another ship without blowing a signal when in the position of crossing or meeting vessels. Also an unannounced change of course renders the one changing her course at fault."

In **The Clara,** 49 Fed. 765, it was held: "Timely signals are required, because such signals tend to avert the natural consequences of carelessness, and the lack of previous timely observation on one side or the other, as well as to enable the boats to come to a common understanding as to mode of passing."

In **The Triton,** 118 Fed. 329, **article 28** was held obligatory on all vessels, and in **The Straits of Dover,** 120 Fed. 900, "The privileged vessel should have kept her course and speed unless in case of imminent danger, and the *Bluefields* (burden vessel) had the right to assume that she would do so, and in case of emergency justifying a departure therefrom, should have followed strictly the rule (art. 28, sounding the proper signals) governing such maneuver, which she failed to do."

In the **A. A. Raven,** 231 Fed. 380, the court held: "She gave no signals whatever from the beginning to the end and therefore she can not be absolved for such an omission."

The English Admiralty courts have held that the rules requiring signals are obligatory.

COLLISION CASE NO. V

Principal Points Involved.

1. Ship Handling in Formation.
2. Character of Lights to be Carried by Sailing Vessels.
3. Duties of the Officer of the Deck on Sighting the Lights of a Vessel.
4. Rules of the Road, article Nos. 19, 20, 21, and 22.

Facts Established.

1. The officer of the deck did not make out the type of vessel on which the light was displayed and waited too long before making a change of course.
2. That the master of the barkentine erred in not showing a flare sooner.
3. That the cruiser was primarily responsible.

Recommendations and Action.

Court recommended no further action. Bureau directed trial by general court for culpable negligence and inefficiency of the officer of the deck. Convicted and lost three numbers.

Government held liable for full damages.

COLLISION CASE NO. V

A division of three cruisers was proceeding from Southampton, England, to Gibraltar. On the night of November —, 19—, when in about latitude 36° 37′ N., longitude 7° 51′ W., the division was in column open order, speed 12 knots, distance 500 yards, course 130° true. The weather was partly cloudy and pleasant, light airs from the south-southeast, sea calm with heavy clouds to the west, south, and east.

About 1800 a white light was seen about dead ahead to slightly on the port bow. Two other small lights were seen to port of this light, but the character of the vessels carrying them was not determined. The sighting of these lights was not reported to the captain.

THE COLLISION AS SEEN BY THE CRUISER

The officer of the deck, after sighting the lights, kept a sharp lookout on them. He had the bridge lookouts keep a sharp lookout, and every endeavor was made to ascertain the course and character of the vessel displaying the light. The night was very dark and it was very difficult to judge the characteristics and distance of a light. The cruiser's running lights were burning brightly.

Fig. 1.
When Light Sighted

The light sighted did not seem to increase in intensity or to change markedly in bearing. About 1831 a flare-up light was shown by the vessel. This flare-up showed the sails and spars of a sailing ship (barkentine). The barkentine appeared to be headed on a course about 90° to the right of that of the cruiser. She appeared to be about 600 feet away.

Immediately upon sighting the flare-up and recognizing the barkentine, the officer of the deck of the cruiser gave the following command: "**Hard astarboard (left), back full speed port engine.**" Then, as the bow swung to the left, the command, "**Stop port**

engine, back full speed starboard, hard aport (right)," was given in the endeavor to swing the stern clear.

At 1833 the cruiser hit the barkentine on her port quarter, injuring her slightly.

AS SEEN BY THE BARKENTINE

About 1805 the captain of the barkentine came up on deck and saw the lights of three steamers on his starboard quarter. The ship was on the course 165° true, about dead in the water. The wind was so light that there was no steerageway.

The lights when first seen were the masthead lights and the range lights of three ships. These lights seemed to be on ships in a column. A little later the red side lights were made out. The captain looked at them and kept them in sight.

Fig 2.
Position as flare was lighted

About 1828 the barkentine's captain realized that the ships were very close, and had a flare gotten ready. At frequent intervals the captain looked at his stern light and saw that it was burning brightly and was properly set. All the other navigation lights were also burning brightly.

The red side lights of the approaching ships were seen all the time and occasionally the green side light of the nearest showed for a moment. Suddenly both the side lights of the leader were seen, and the captain realized that this ship was headed for him. The flare was lighted at about 1832. The steamer was about 600 to 700 feet away when the flare was lighted. The approaching steamer was seen to change her course to her port. (See fig. 2.)

Almost immediately thereafter the cruiser hit the barkentine on the port quarter, inflicting considerable damage to her spars.

Testimony at the subsequent court of inquiry brought out the following facts:

The lights of all the ships were lit and burning and showed through the proper arcs. They were strong and showed for the proper distance. The proper lookouts were stationed and on the alert.

The light of the barkentine was reported by the lookouts to the officer of the deck as soon as it was seen. It appeared to the lookout

on the starboard wing of the bridge to be dead ahead to slightly on the starboard bow. The light appeared to the officer of the deck, who was standing amidships, to be directly ahead to slightly on the port bow.

The officer of the deck kept a sharp lookout on the light, used his binoculars at intervals, and endeavored to ascertain what the light was and what was necessary to avoid the same. He stated that he did not realize that he was approaching it as rapidly as it proved that he was. Further, he was attempting to make out the side lights so as to decide what course the ship was steering.

The captain of the barkentine did everything for the safety of his ship, without being able to maneuver.

The court found that the following facts were established:

That the night was very dark, and that it was very difficult to judge the distances and characteristics of lights.

That the white light sighted by the cruiser did not grow any brighter to the eye, and that therefore it did not give any warning of its imminent proximity.

That the officer of the deck was watching this light and endeavoring to ascertain her course, but that he erred in judgment in not making early change of course.

That the master of the barkentine erred in that he did not burn his flare when he must have seen a brilliantly lighted group of ships bearing down on him.

That the cruiser was primarily responsible for the collision. This was due to the error of judgment on the part of the officer of the deck of the cruiser, which error was hardly surprising considering the difficulties of the situation.

The court expressed its opinion as follows:

"No further proceedings are necessary, owing to the establishment of the fact that there was no culpable negligence nor lack of alertness on the part of the officer of the deck of the cruiser."

The Bureau of Navigation disagreed with the court in its opinion, as follows:

"While the bureau realizes that the lack of experience of a young officer two years out of the Naval Academy would account for the lack of skill in handling a ship, and in some degree for the lack of good judgment, the bureau can not understand how an officer who has graduated from the Naval Academy could be so far lacking in judgment and intelligence as not to have known that after sighting a vessel's lights ahead he would probably reach the vessel if the said light did not change its bearing, and that after steaming a distance of 4 miles, without the said light changing its bearing, the necessity for the greatest alertness and caution was necessary.

"The bureau does not agree with the opinion and recommendation of the court that no further proceedings are necessary, as the bureau is of the opinion that the testimony shows that there was culpable negligence and lack of alertness on the part of the officer of the deck."

The bureau directed that the officer of the deck be brought to trial for culpable negligence and inefficiency in the performance of his duties.

In some cases that have appeared before the Supreme Court and other Federal courts in which the question of lights carried by sailing ships was involved the decisions are cited herewith:

The Federal courts have held, in regard to the liability for carrying of improper lights, that the ship that has improper lights is liable. This was held in **The Romuk,** 120 Fed. 841, in **The Royal Arch,** 22 Fed. 457, and in **The Mary Lord,** 26 Fed. 862.

In **The Mary Lord,** 26 Fed. 862, the court held as follows:

"The other vessel was deceived and misled by this failure * * * the fault, then, being wholly on the part of the vessel libeled, there must be a decree accordingly."

In **The Clendinin v. The Steamship Alhambra,** 4 Fed. 86, the court held:

"That lights so arranged as to mislead an approaching vessel, in regard to the course she was pursuing, renders a vessel liable."

In **The Titan,** 23 Fed. 413, the court held:

"The rules requiring lights may as well be disregarded altogether as to be only partially complied with, and in a way which fails to be of any real service in indicating to another vessel the position and course of the one carrying them."

The Rules of the Road call for the steamer under most circumstances being the burdened vessel, and the following decisions of the Federal courts are cited to show what they consider the duty of the steam vessel. The Rules of the Road that are applicable are 20, 21, 22, and 19.

The Supreme Court held in **The Potomac,** 8 Wall. 590:

"One of these rules requires the steamer to keep out of the way of the sailing vessel; but to enable her to do this effectively, the law imposes the corresponding obligation on the sailing vessel to keep her course. If, therefore, the steamer adopts measures of precaution to avoid the collision, which would have been effective if the schooner had not changed her course, she is not chargeable for the consequences of the collision."

COLLISION CASE NO. VI

Principal Points Involved:

1. Identification of lights.
2. Duties of the officer of the deck or the captain if on the bridge when a light is sighted and there is no change of bearing.
3. Duties of the overtaking vessel.
4. Rights of sailing vessels and their duties.
5. Rules of the Road involved, articles 10, 20, 21, and 24.

Facts Established.

1. Lights not changing in bearing, no action taken until too late.
2. Mistake in identifying a light.
3. Lights were not exactly according to law.

Recommendation and Action.

1. The board of investigation held that the schooner was to blame and that no fault rested on the steamer. The court of inquiry held that the captain of the steamer was justified in continuing his course. And the recommendation was that no further action be taken.
2. The owners of the schooner libeled the Government, and the Federal court held that if lights are a little irregular, and if at the same time they are not the primary cause of the collision, they can not put the blame on the one carrying them. That there was no fault attributable to the schooner, and that the steamer was entirely to blame. The schooner's owners recovered full damages.

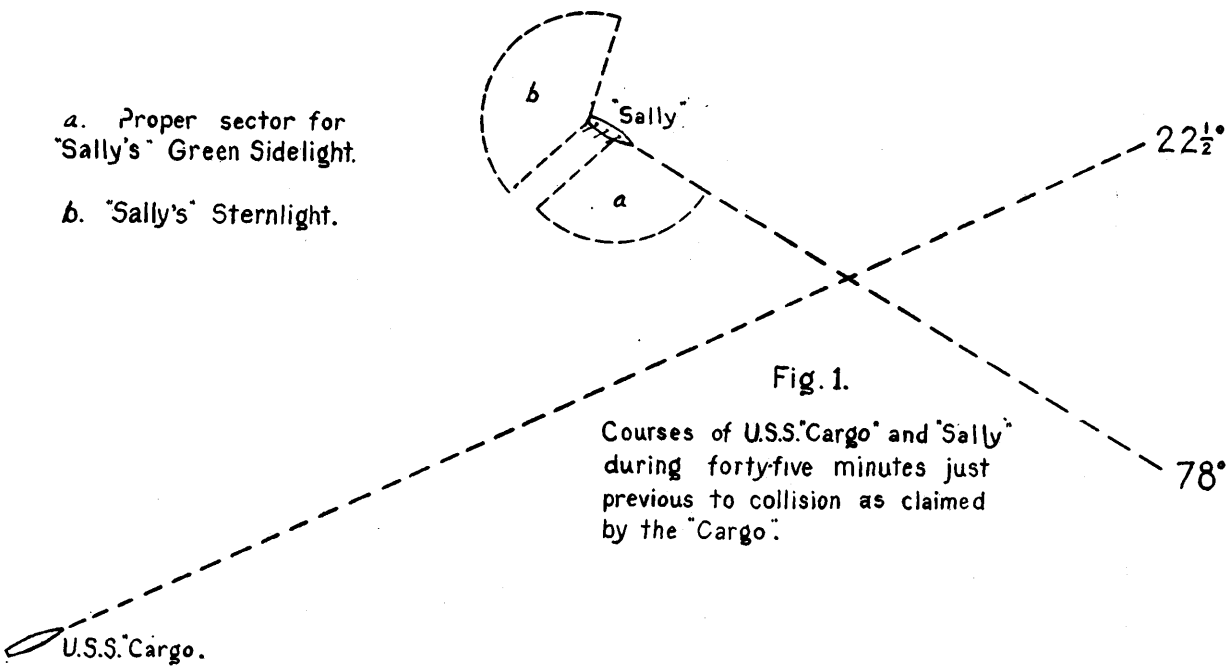


Fig. 1.

Courses of U.S.S."Cargo" and "Sally" during forty-five minutes just previous to collision as claimed by the "Cargo".

COLLISION CASE NO. VI

A supply vessel, the U. S. S. *Cargo*, attached to the train, Atlantic Fleet, was making passage from Hampton Roads, Va., to New York, N. Y., on the night of November 9, 190–. Her course was 28° true, speed 12 knots. The weather was cloudy, the night very dark but clear. Lights could be seen at great distances. The wind, about force 3 to 4, was from the north-northeast (about 25° true). At about 1832, Barnegat Inlet Light bore 270° true, distance 10 miles.

The lookouts, as required by the law and the regulations, were properly stationed and on the alert. The officer of the deck was on the alert and thoroughly competent.

About 1830 the captain came on the bridge. Almost immediately thereafter a white light was reported, two points on the port bow. The captain saw this light and put his glasses on it.

In his testimony before a board of investigation and court of inquiry, the captain stated that he believed this light to be the masthead light of a steamer standing to the southward and inshore of him. He further stated that he was continually looking for the red side light of this supposed steamer to show up.

Both of the lookouts, the officer of the deck, and the signalman saw this light and kept a bright lookout thereon. All the running lights of the *Cargo* were lit and burning brightly and were in accordance with the Rules of the Road.

The white light was seen to draw slowly aft.

About 1838, or a minute or two later, a second white light was made out just to the right of the first one. The captain of the *Cargo*, who was standing on the starboard side of the bridge, suddenly, about 1831, sighted a green light just to the right of these two white lights.

The captain stated, in his subsequent testimony, that he believed this to be the green side light of a sailing ship at the extreme range of visibility, and that he continued to believe that he would make out, at any moment, the red side light of the steamer which he believed to be carrying the white light previously reported.

In order to clear this sailing vessel which he believed the green light represented, he gave the following orders: **"Hard astarboard (full left)."** The ship's head swung to "north by east," on which heading she was steadied.

Almost immediately thereafter the captain saw by the loom of the lights that the vessel ahead of him was a 3-masted schooner under full sail. She was headed to the eastward and was so close aboard that the captain of the steamer was unable, no matter what he did, to prevent the collision. As soon as he saw this sailing vessel, he gave the following orders: **"Full speed astern both engines, hard aport."**

The officer of the deck, who was on the port side of the bridge, and the lookout in the cathead, stated in their testimony at the subsequent board of investigation and court of inquiry that they did not see the green light of the schooner until practically the instant of collision.

The *Cargo* struck this schooner at an angle of about 45° from the stern, on the starboard side, just abaft the fore rigging. The schooner was cut nearly half in two, her main rigging was severed, and the deck load, consisting of piling, was broken loose. When the *Cargo* backed clear of the wreckage, the wreck (schooner) capsized, with the loss of the schooner's captain, his wife, and two men.

AS SEEN BY THE SCHOONER

On the evening of November 9, a 3-masted schooner, *Sally*, was on the course "east" sailing, full and by, under flying jib, jib, forestaysail, foresail, mainsail, and a single-reefed spanker. This course was maintained from 1800 until immediately preceding the collision, when the helm was put **hard astarboard (full left).**

The master of the *Sally* and the helmsman sighted the lights of the approaching steamer (the *Cargo*) about 1800, bearing about 3 to 5 points abaft the starboard beam. This vessel's approach was watched carefully.

The *Sally's* running lights (red and green side lights) were lit and burning brightly, properly set and secured in place. As a stern or overtaken light, one of the anchor lights was used, with a lens globe, showing a white light all around the horizon.

When the lights of the approaching steamer were first sighted, the master of the *Sally* ordered the white light to be lighted and placed on the cabin hatch aft, so that it could be easily seen. This light was a little lower than the side lights. The side lights were 9 feet above the water line when on an even keel.

The *Sally* maintained her course and speed, subject to the fluctuating breeze, until immediately before the collision, when the captain ordered, **"Hard astarboard."** This maneuver was undertaken, in extremis, in the endeavor to swing the ship clear of the approaching steamer.

The lights of the *Sally* had been cleaned, filled, and trimmed on the morning preceding the collision.

In the diagram A is the port cat head lookout.
B is the starboard cat head lookout.
C is signal man on the bridge.
D is the officer of the deck.
E is the helms man and quartermaster at the conn.
F is the commanding officer

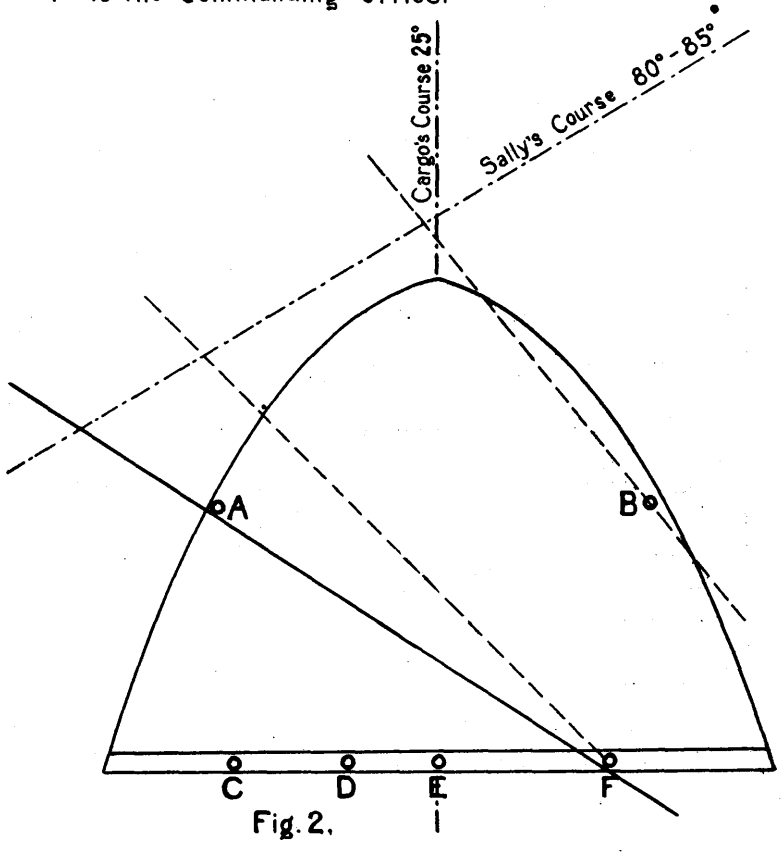


Fig. 2.

The light appeared white to all below the solid line and green to F, the commanding officer, until the schooner was close aboard, when it also appeared green to A it did not show green to B until it came in line with the bow.

A board of investigation was ordered by the commanding officer of the *Cargo* to investigate and report upon the collision. This board found, as its opinion, that the responsibility for the accident rested entirely with the *Sally*, because it considered that the schooner's green side light was not in accordance with the Rules of the Road, in that it did not show through the proper arc and for the proper distance. That the stern light or overtaken light showed through too great an arc.

At the subsequent court of inquiry the court found the following facts not already set forth:

> That the first white light seen by the captain of the *Cargo* drew slowly aft. He then saw a green light about two points on his port bow, just to the right of this white light (which green light was later reported by the lookout.) The helm was starboarded in obedience to the captain's orders. The ship was steadied on the course north by east (15°).
>
> That almost immediately after this the schooner (*Sally*) was sighted so close aboard under the bows that collision was imminent, if not unavoidable, and that the *Cargo's* engines were immediately **stopped and backed full speed.**
>
> That at no time was a green light seen from the port side of the *Cargo's* bridge, but that it was seen from the starboard side.
>
> That the port cathead lookout saw the green light immediately previous to the collision, though it appeared white when first seen.
>
> That the starboard cathead lookout saw the green light only when it passed the bow of the supply vessel, going to starboard.
>
> That this green light was visible to the captain of the supply vessel on the starboard side of the bridge, and the port and cathead lookouts. This was due either to the schooner's drawing slowly ahead, or to her falling off somewhat, thus showing her green light.

The court of inquiry expressed its opinion as follows:

> That, in the opinion of the court, the assumption of the *Cargo's* commanding officer that the white light first seen was the masthead light of a steamer is not justified, for it could have been the fixed stern light of another vessel. As the white light drew slowly aft, it would appear that he was justified in going ahead, for had it been a steamer's masthead light the rule required him to hold his course and speed, but since it could also have been a fixed stern light a doubt ex-

isted, and he should have assumed that there was danger of collision, and approached with caution.

That the measures taken to prevent collision at the time the green side light was seen, and during and succeeding the collision, were seamanlike and in accordance with the law.

That the *Sally* neglected the precautions required by ordinary practice of seamen and the special circumstances of the case by not showing the light from the stern and not waving a white light.

The court was of the opinion that the *Sally's* sails obscured her white light until the *Cargo* was within 1 mile of her. That, in its opinion, the reason the green light did not show over the proper sector may have been due to two causes—either the screens were not properly constructed, or the light box being on the leeside and the fore rigging being slack, the light may not have shown over the proper sector.

In summing up, the court expressed its opinion that the collision was caused, first, by the commanding officer of the "Cargo" assuming that the white light as seen was the masthead light of a steamer and not approaching with caution; second, by the "Sally" not showing a white light from the stern or by not waving it, thereby neglecting a precaution required by the ordinary practice of seamen and the special circumstances of the case, and in not showing a flare in time to prevent collision; and, third, by the green light not being visible over the required arc.

The court recommended that no further proceedings be taken in the matter.

The owner of the *Sally* libeled the Government in the district court, and, as a result, the *Cargo* was held to be solely in fault.

Quoted herewith is part of the decision of the Federal judge in this case:

"The schooner was the overtaken vessel, and it can not be denied that contact under such circumstances puts the burden of explanation very strongly on the steamer. The only allegation of fault against the schooner is that the *Cargo* was deceived by the kind of light shown by the schooner and seen by the steamer for approximately a quarter of an hour before the collision. That in discussing the question whether this light was in strict compliance with the rule it may be first inquired whether those in charge of the *Cargo's* navigation were thereby deceived or misled.

"The captain of the steamer saw a bright white light almost two points on his port bow at 6.30 p. m. The night was intensely dark, but lights could be seen with great distinction. The white light was

taken to be the masthead light of a steamer, at least 5 miles distant and standing down the coast inshore of his vessel. This white light drew aft very slowly. At 6.45 p. m., no colored light having been previously seen, a green light showed just where the master was expecting a red light to appear. This green light he assumed to belong to a different vessel, whereupon he starboarded his helm to clear, and in less than two minutes found the hull of the schooner almost right under his bows.

"The steamer's captain appeared to be altogether deceived as to the character of the white light seen.

"It is obvious that as a matter of fact the steamer was overtaking the schooner, and that the collision happened at the very minute when the green light showing two points abaft the beam was becoming visible and was, in fact, seen by the captain on the starboard side of the bridge, and was not seen by the boatswain on the port side. No excuse is offered for the original error of judgment, viz., persistence in believing a white light on the deck house of a laden schooner, unaccompanied by any colored lights at all, to be the masthead light of a steamer, for more than 10 minutes. This space of time is mentioned, because it is obvious that if after 10 minutes' study of this white light the captain had seen his error there was still plenty of time to avoid collision.

"If the white light of the schooner had been screened, it would have afforded no additional information to the steamer until the collision (at the speed the steamer was traveling) was unavoidable.

"The primal cause of the collision was a mistake made by the *Cargo's* captain as to the character of the white light seen and because it is not shown that any act or omission on the part of the schooner caused or contributed to the disaster, the libelant may take a decree as prayed for." (Full damages.)

In support of the decision of the Federal court in this case, citations from the following cases are presented herewith:

In **The Silver State,** 288 Fed. 948:

The facts of this case were very similar to those of the subject case. The court held as to changing course:

"It was the duty of the steamer to avoid her, and of the schooner to maintain her course, unless it became apparent that this was courting disaster.

"The fact that a sailing vessel, carrying proper lights, was run down by the steamer on a night when visibility as to lights was good throws a heavy burden of explanation upon the steamer."

In **The Maverick,** 84 Fed. 906, the court held:

"It was the duty of the steamship to keep out of the way of the schooner, notwithstanding she was incumbered by a tow.

" The collision was caused by the inexcusable negligence on the part of the steamship in approaching too near the schooner before making the necessary maneuver to pass her safely."

In **The West Hartland,** 2 Fed. (2d) 834, the court held:

" The excuse offered is that one of the navigators mistook the lights and the other misjudged the distance. There was culpable negligence * * *.

" When there is doubt as to a vessel's course it is the plain duty of a navigator to solve that doubt in favor of safety by giving a danger signal or taking timely steps to avoid a collision before plunging his vessel into a position where a collision would be the natural, if not the necessary, consequence."

In **The Cornell,** 15 Fed. (2d) 375, the court held:

" Where, the fault of one party is gross and unescapable, the alleged contributory fault of any other party must be proven by a clear and convincing preponderance of evidence."

In **Atlantic Coast Co. v. United States,** 13 Fed. (2d) 354:

" Failing to have or show a stern light, or to use a flare light, breached article 10 of the International Rules and the schooner held in fault."

In **The Iberia,** 117 Fed. 718, 123 Fed. 865:

" The *Carib* (barkentine) was grossly in fault for so arranging her lights and sails that upon occasions there would be a considerable field of obstruction."

COLLISION CASE NO. VII

Principal Points Involved.

1. Emergency communication between bridge and engine room.
2. Ship handling alongside.
3. Authority of pilot and reliance to be put on the pilot.

Facts Established.

1. Improper method of communication between bridge and engine room existed, in that the bells were not used or seen to be in proper condition.
2. That poor communication was the primary cause of the accident.

Recommendations of Board.

No further action be taken in the case as far as disciplinary action is concerned.

COLLISION CASE NO. VII

A destroyer stood into the dredged channel leading to Balboa, Canal Zone, on the afternoon of May 12, 1927. She had orders to moor alongside Pier No. 4. The weather was clear, wind east, force 2 to 3, tide ebbing. The standard speed was 15 knots.

As she entered the channel, the engine-room telegraph leading to the port engine room carried away. The bell pulls, installed for emergency use, were not used. The captain stated that he was not sure of them; he was afraid they might stick or not function properly.

To insure communication, the voice tubes were used. A yeomen was stationed at the tube on the bridge and a competent fireman at the engine-room end.

A pilot was on board at the con, as required by the harbor regulations. The captain was on the bridge. All preparations for going alongside had been made.

The berth assigned was at Pier No. 4. At this pier there were other destroyers tied two abreast just to the south or outboard of the assigned berth. Just ahead of the berth, with about 50 yards to spare, was shoal water.

She was to go alongside, starboard side to. In entering she came from the south.

The ebbing tide set the destroyer on the pier.

In making this landing, the destroyer approached her berth at a sharp angle. Her speed through the water was about 3 knots. She continued on this course until her bow was close to the pier and her stern was clear of the stern of the outboard destroyer by about 25 feet. The pilot, who was at the con, gave the following order: **"Full speed astern, port engine."**

The above order was given over the voice tube and acknowledged by the engine room.

The pilot was endeavoring to check the headway and at the same time throw the ship's stern into the dock.

The engines were backed full speed for about one minute.

The captain saw the destroyer start astern. He gave the order **"Standard ahead, both engines."** Before the stern board had been taken off she had backed into the stern of the outboard destroyer.

At the subsequent investigation the following facts were brought out by the evidence adduced:

The yeoman stationed at the voice tube stated that he had to repeat the order "*Ahead standard speed*" given by the captain three times before it was acknowledged by the engine room.

There was ample boiler power and the engines were ready for operation at any speed without changing combinations.

The officer of the forecastle stated that as the destroyer approached the pier she came in at a moderate speed, stopped, then shot astern. He also stated that lines were being gotten out, but that only one had been secured to the dock and that was an afterspring line which could not have been used to check the destroyer's stern board.

The captain of one of the destroyers moored to the southward of the assigned berth witnessed the accident, and testified as follows:

"I was standing on the dock opposite this destroyer when the collision occurred. The stern at this time was about 25 feet from the stern of the outboard destroyer, and she was dead in the water. She shot astern at high speed and sent this outboard destroyer ahead about 15 feet with a heavy strain on the mooring lines. When this destroyer came alongside of the dock it appeared to me that her bow came in contact with it with considerable force, due to the tide setting her in."

The board of investigation found the following facts established:

That the destroyer came into the dock at too great a speed under all the circumstances.

That the use of voice-tube communication rather than emergency bells fitted was an error of judgment.

That the cause of the accident was the failure of communications between the bridge and the engine room.

No further action was recommended.

COLLISION CASE NO. VIII

Principal Points Involved.

1. River and harbor navigation.
2. Duties of the commanding officer when a collision is imminent.
3. Rules of the Road, article 18.

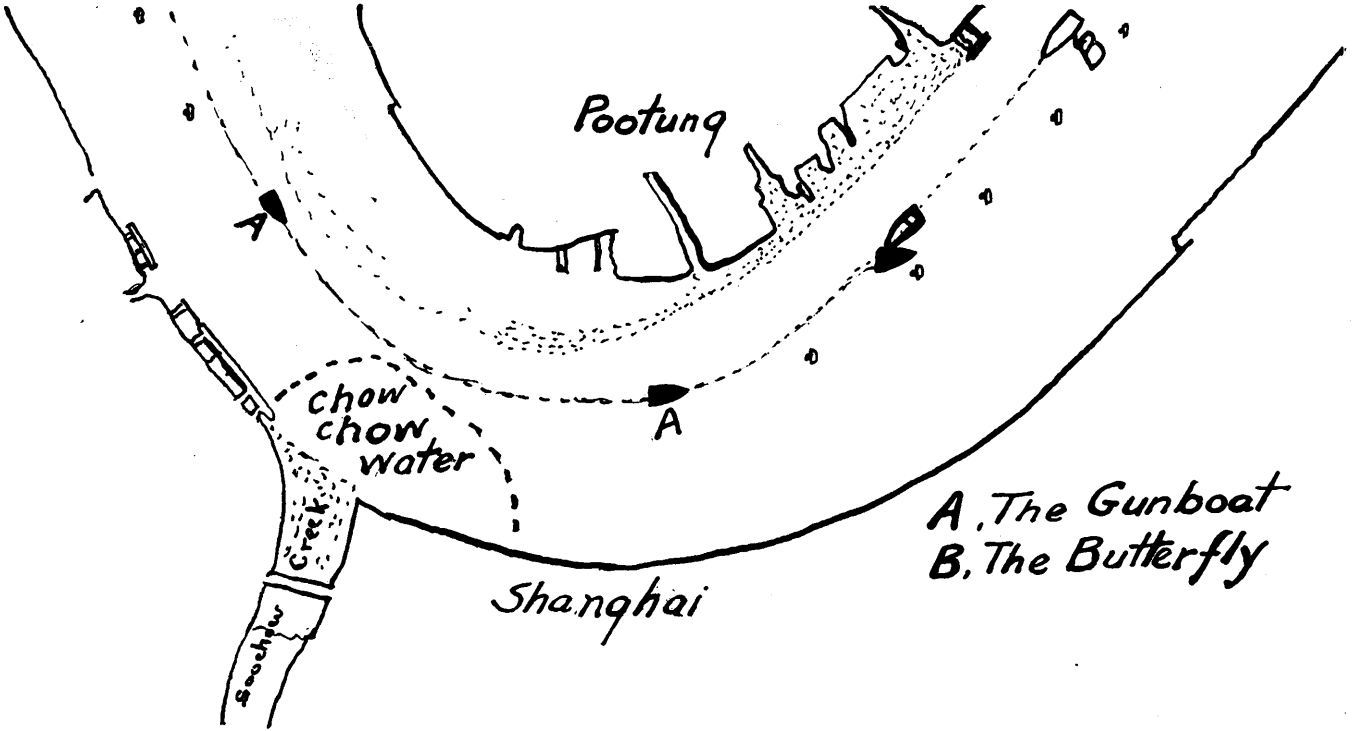
Facts Established.

1. That passing signals were not exchanged.
2. That if either vessel had acted sooner no collision would have resulted.
3. That both vessels were responsible.

Recommendations of Board and Action of Reviewing Authority.

No further action to be taken. The reviewing authority addressed a letter of admonition to the commanding officer of the gunboat.

The department held that the Government was responsible for half damages.


Pootung
A
A
chow
chow
water
Creek
Soochow
Shanghai
A. The Gunboat
B. The Butterfly

COLLISION CASE NO. VIII

A river gunboat was standing up the Whangpoo River, China, to her assigned moorings off the French City, Shanghai. The weather was clear, the wind light airs, and tide flood. About 0800, that morning, she was rounding the bend where Soochow Creek enters. From about a mile above to a mile below the Soochow Creek the river has mooring buoys in the middle.

The gunboat was on the Pootung side of these buoys, opposite Soochow Creek. The tide had been flooding for about an hour and was running at full strength (2 knots per hour). The gunboat was making about 6 knots through the water and 7 to 8 knots over the ground. She was conforming to the channel.

About 0750 a coasting steamer, the *Butterfly*, cast off from her wharf and stood down the river on her way to sea. She also was on the Pootung side. Her speed was about 1 to 2 knots over the ground.

At about 0800 the gunboat saw the *Butterfly* standing down and judged that her course was nearer the Pootung side than her own, although it was about the reverse of his own course. The *Butterfly* appeared to the captain of the gunboat and to the quartermaster of the watch to be on the gunboat's port bow at all times, after she was sighted.

When the gunboat had steadied on her course after making the turn, the *Butterfly* appeared to be about 400 to 500 yards away.

There were no passing signals given.

The captain of the gunboat heard the *Butterfly* sound three blasts on her whistle. This was immediately answered with one blast, and the rudder was put hard right. About a minute later the ships collided.

AS SEEN BY THE "BUTTERFLY"

As soon as the *Butterfly* was clear of her wharf, her course was shaped down river and the engines were at half speed ahead. The resulting speed over the ground was about from 1 to 2 knots.

Both the master and the second mate, who was the officer of the deck, of the *Butterfly*, saw the gunboat before she rounded the bend at Soochow Creek. A sharp lookout was kept on the gunboat from that time until the time of the accident.

The testimony of these two officers was to the effect that at no time did the gunboat bear on the *Butterfly's* port bow, but that at all times she was on the *Butterfly's* starboard bow.

The captain of the *Butterfly*, when he saw that a collision was imminent, sounded three blasts on the whistle. The signal was immediately answered by one blast by the gunboat. When the 3-blast signal was given by the *Butterfly*, her engines were backed full speed.

Immediately before this exchange of signals, the gunboat was seen to sheer sharply toward the Shanghai side of the river, thus putting herself across the steamer's bow. About 0805 the two ships collided, the *Butterfly* hitting the gunboat on the port quarter, staving in her side and quarter.

At the subsequent court of inquiry the following testimony relative to the collision was presented:

In the vicinity of the entrance of Soochow Creek into the Wangpoo, for about an hour to an hour and a half after the making of the flood, there is very dangerous "chowchow" water. This "chowchow" water is particularly dangerous to light-draft vessels and small boats, which often get completely out of control when caught in the eddies.

Witnesses who were conversant with the river and its waters from sailing them for many years in all types of vessels, testified as to local conditions and customs. Their testimony was in substance as follows:

The "chowchow" water, formed by the meeting of the Wangpoo and Soochow Creek, is most dangerous off the gardens and the mouth of the creek. Small vessels should avoid "chowchow" water, as the steering is very difficult, and often control of the ships is lost. At this particular point, also, there is a great deal of small boat traffic, consisting of sampans and junks, both entering and leaving Soochow Creek. It is considered good policy and correct procedure to keep in the middle of the river when coming up with a flood tide. One of the witnesses even said that it was far wiser to stay over on the Pootung side than even in the middle of the river.

Outbound vessels generally leave their wharves on the first of the flood in order to reach the bar at Woosung at the height of the flood.

The harbor regulations require that the speed in the river be kept as low as is consistent with safety and ability to handle. This applies to ships going in both directions.

Another master was asked the following hypothetical question:

Q. If two vessels meet end on or nearly so, and there is imminent danger of collision, do you consider it the duty to change course and make all possible effort to avoid collision, irrespective of the rights of the two parties as laid down in the Rules of the Road?

A. Yes. There is no right of way recognized.

The captain of the gunboat gave the following testimony:

That he was on the port, or Pootung, side of the channel, and that he had the mid-channel buoys on his starboard hand, close aboard.

That he was proceeding at as low a rate of speed as was consistent with safety and his ability to handle the ship.

That his reason for being on the Pootung side of the river was that there was dangerous "chowchow" water on the Shanghai side, and that he considered it so advisable to come up on that side that he always did, and that it was the custom of all ships of light draft, similar to his ship, to do likewise.

He testified that he maintained his course and speed from the time he rounded the bend until he saw that the collision was imminent when, on hearing the 3-blast whistle signal of the *Butterfly*, he went hard right and tried to swing the gunboat clear.

The subsequent court of inquiry held the following facts to be established:

That both ships were steering courses approximately parallel with the Pootung shore line.

That the two ships approached each other head-on, or nearly so.

That no whistle signals were given until a dangerous situation had arisen, at which time the *Butterfly* gave the three blasts on her whistle and reversed her engines.

That the gunboat answered with one blast and put her rudder hard right.

That no other steps were taken by either vessel to avoid collision.

That it would have been possible for either ship to have cleared by changing course in due time to the Pootung side, indicating her intention by whistle signals.

That both ships were responsible.

The reviewing authority held that the accident resulted from the omission by both vessels of the whistle signal prescribed by law for passing vessels until it was too late for such signals to be of value, and that, in the opinion of the reviewing authority, **the responsibility is equally divided between the two ships.** The reviewing authority, Commander in Chief of the Asiatic Fleet, addressed a letter of admonition to the commanding officer of the gunboat.

The Supreme Court and other Federal courts have interpreted the Rules of the Road involved in the above case, and their interpretation is presented herewith by citations from their decisions:

Article 18, Rules of the Road, has been interpreted as follows:

"That the manner of passing, under this rule, is not in any sense optional nor does the rule permit of any deviation from its express

requirements. On the contrary, it is mandatory and positive. The positions of the steamers in relation to each other when meeting is the determining factor as to how they must pass, and such passing must be conducted in accordance with the requirements of the rule."

The following was held by the Federal court in the case of **The Transfer No. 10,** 137 Fed. 666:

"The evidence satisfies me in this case that when these two vessels saw each other they were end on, or nearly so. The rule does not permit two vessels to pass starboard to starboard if they are not exactly end on; the rule is 'end on, or nearly so.' The general rule is to pass to the right. That is the foundation of all the rules of the road. It is only in exceptional cases where you pass to the left. The cases where you are entitled to pass starboard to starboard are when two vessels are approaching each other on lines each of which is so far to starboard of the other as to justify the exception to the general rule. I think in this case the vessels were about end on, and in any event the *Mary J.* was not on a course sufficiently to the left of the other's course to justify her in sounding two whistles and endeavoring to pass starboard to starboard. But whether she was or not, she, in fact, sounded one whistle, and if the transports believed that it would be dangerous to acquiesce in that whistle they should have sounded alarms. That is the rule. If they were not going to acquiesce in her course they should have sounded alarms."

Again, the Supreme Court, in the case of **The America,** 92 U. S. 432, held:

"Steamships meeting end on, or nearly end on, should seasonably adopt the required precaution, and neither can be excused from responsibility, in case of omission, merely upon the ground that it was the duty of the other to have adopted the corresponding precaution at the same time, if it appears that the party setting up that excuse enjoyed equal facility to obey the requirement with the other party, and might have prevented the disaster. Imperative obligation is imposed upon each to comply with the rule of navigation; nor will the neglect of one excuse the other in a case where each might have prevented the disaster, as the law requires both to adopt every necessary precaution, if practicable, to prevent the collision, and will not tolerate any attempt of either, in such an emergency, to apportion the required precaution to avoid the impending danger, in case where both or either might secure perfect safety to both ships and all entrusted with their control and management."

Article 25, Rules of the Road, requires:

"Steam vessels, when it is safe and practicable, to keep to the starboard side of the fairway, or mid-channel, which lies on the starboard side of such vessel."

The Federal courts, in the case of **The Three Brothers,** 170 Fed. 48, held as follows:

"The rule must be construed in the light of common sense. Its purpose is to prevent collisions, not to produce them. It is not an inflexible rule to be followed in all cases, and where it is manifest that blind adherence will produce disaster, it is not only the right but the duty of the navigator to disregard it. The rule so states explicitly: It must be followed only 'when it is safe and practicable.'"

In the case of **The Victory** and **The Plymothian,** 168 U. S. 410, the court held:

"Each of these vessels was entitled to presume that the other would act lawfully; would keep to her own side; if temporarily crowded out of her course, would return to it as soon as possible; that she would pursue the customary track of vessels in the channel, regulating her action so as to avoid danger."

A custom or practice of vessels to use the wrong side of a narrow channel under certain tidal conditions has been held to be no excuse for violation of the rule.

Again the Federal courts have held this in the case of **The Transfer No. 10,** 137 Fed. 666:

"These rules in this case made it the duty for these transports to be on the right-hand side of the center of the stream, and, in point of fact, admittedly they were on the left. The fact that it may be the custom to do this when there is an ebb tide, and that it may be easier to up on the New York side than on the other side, and that they thereby can go a little faster, does not alter the fact that any vessel that goes up in that way violates the law and takes the risk, and, if there is any collision, is presumably in fault."

Again, in the case of **The T. J. Moran,** reported in 299 Fed. 500, the court held:

"In determining whether the starboard-hand rule applied, the courses, the channels, and the shore line must be considered. The rule is ordinarily inapplicable to vessels coming around bends in the channel which may at times bring one vessel on the starboard hand of the other."

In **The Bilbstar v. The Stavangaren,** 6 Fed. 2d 954, the court held:

"Port to port passing is the normal and proper navigation. A vessel is not entitled to assume that another vessel will pass starboard to starboard until two whistles are blown and answered."

In the case of **The Wolsum v. Himrod,** 14 Fed. 2d 371, the court held:

"The burden of proving that a vessel having the right of way in a channel was at fault in a collision because of the failure to promptly stop and reverse, after it became certain that the other vessel was unable to keep clear, is on such other vessel."

In the case of **The Clara,** 49 Fed. 765:

"Timely signals are required, because such signals tend to avert the natural consequences of carelessness, and the lack of previous timely observation on one side or the other, as well as to enable the boats to come to a common understanding as to the mode of passing."

In **The John King,** 49 Fed. 469, the court held:

"The rules of navigation enacted by Congress are obligatory upon vessels approaching each other from the time the necessity for caution begins; and that the time, as the vessels advance, so long as the means and opportunity to avoid danger of collision remain. Until the necessity for precaution begins, obviously, there can be no fault on the part of either vessel, of which the other can justly complain."

As to the rights of holding on vessel and as to answering whistle signals, the Supreme Court, in **The New York,** 175 U. S. 187, held:

"The fact that a steamer is entitled to hold her course does not excuse her from inattention to signals, from answering where an answer is required, or from adopting such precautions as may be necessary to prevent a collision, in case there be a distinct indication that the obligated steamer is about to fail in her duty."

COLLISION CASE NO. IX

Principal Points Involved.

1. Duties of the officer of the deck when two vessels are in the position of crossing and when risk of collision is present.
2. Duties of the commanding officer in like circumstances.
3. Acts in extremis.
4. Rules of the Road, articles 19, 21, 22, 23, 24, and 27.

Facts Established.

1. That the *Long* should have kept clear.
2. That as the destroyer approached she swung slowly to the left.
3. That the *Arcturus* did nothing until too late to prevent the accident.

Recommendation and Action.

That the captain of the destroyer be given a letter of reprimand for his poor judgment.

That the captain of the tender be given a letter of reprimand for his error of judgment.

The reviewing authority held that there was no error of judgment on the part of the commanding officer of the tender.

A letter of reprimand was given to the captain of the *Long*.

Serial No. 9

COLLISION CASE NO. IX

A squadron of destroyers and their tender, *Arcturus*, were engaged in target practice off San Diego. The weather was clear, the sea calm with light breezes.

About 1342 a destroyer finished firing her short-range practice. This destroyer was the last one scheduled to fire that day. Previous to her firing, orders had been issued that when she completed, the *Arcturus* would proceed to a position for making trial or practice runs.

The target was on the base course 90° true, standard speed 5 knots. The destroyer fired to port on her last run. The *Arcturus* was steering the same course, with the target bearing 27½° forward of her port beam, distant 2,000 yards.

The *Long*, another destroyer, had been keeping on the starboard quarter of the *Arcturus* all during the firing. She had been waiting to go to the one which was firing, in order to pick up her men who had been umpiring. The *Long's* position was a little on the starboard quarter of the *Arcturus* and about 2,000 yards astern of her.

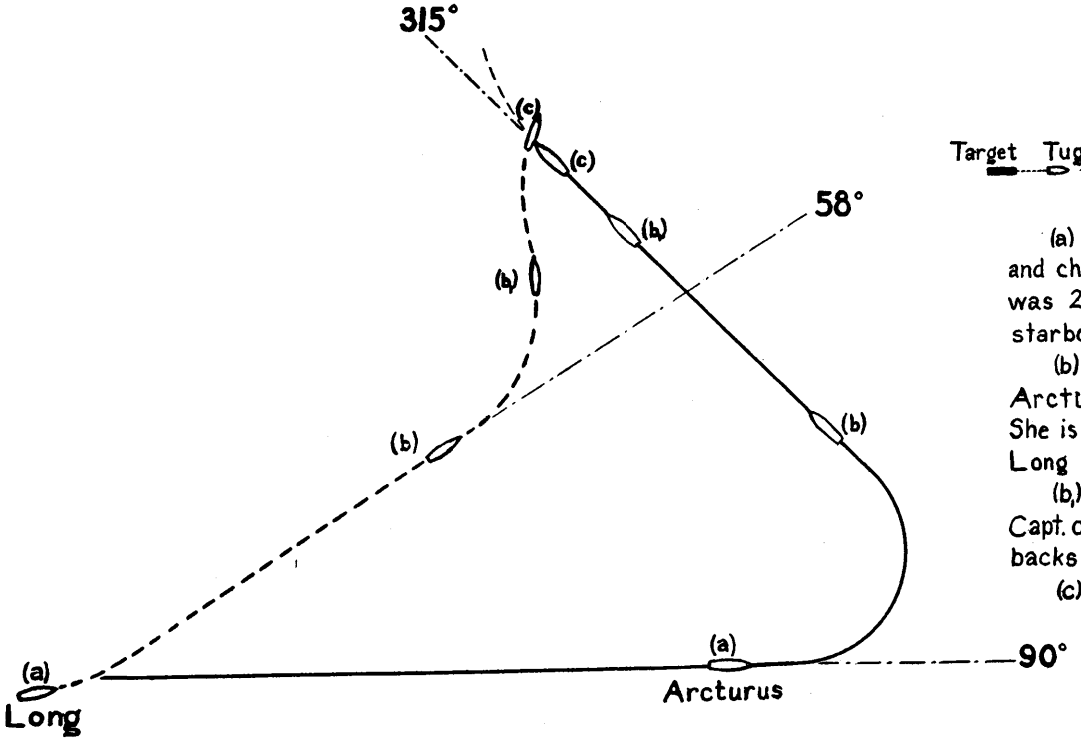
The *Arcturus*, at about 1344, the run having been finished, blew two blasts on her whistle and put her rudder 20° left and started to swing. Standard speed was rung up on the annunciators and the engines answered. Orders were given to steady her on the course 315° true, and when the tender had swung to that course she was steadied on it.

The *Long*, when the run was finished, went ahead two-thirds speed, 10 knots, and changed course to 58° true. Her intention was to stand up toward the target and get her umpires back from the firing ship.

THE COLLISION AS SEEN BY THE "ARCTURUS"

On the *Arcturus's* bridge were the officer of the deck and the navigator. Just prior to her change of course they both looked to port and saw that there were no ships in sight on that side. The order was then given to go ahead standard speed and to put the rudder left 20°.

When she had nearly finished the turn, the *Long* was seen abeam to port or slightly forward of the beam. The *Long* appeared to be on a converging course and steaming at a speed of about 10 knots.



(a) Arcturus blew two blasts and changed course at 1343, Long was 2000 yds. slightly on her starboard quarter.

(b) Position at 1349. Arcturus sounds danger signal. She is steady on course 315° true. Long bears 240° true.

(b) Positions at 1351 Capt. of Arcturus on bridge backs engines full speed.

(c) Collision at 1352

When she was about two points forward of the beam, the *Long* was distant about 1,000 yards, bearing 240° true. About 1348 the navigator advised the officer of the deck to sound the danger signal, several short blasts on the whistle. He gave these instructions because he believed that the *Long* was approaching too close. He also realized that if the *Long* continued as she was going there was a possibility of a collision.

The captain of the *Arcturus* was on the deck below. He heard the danger signal and rushed to the bridge. When he saw the position of the ships, he stopped both engines and then backed full speed. As he arrived on the bridge the *Long* was about two points forward of the beam and distant about 500 yards.

The danger signal was sounded about 1348; the engines were stopped and backed about 1351. The ships collided about a minute later, the *Arcturus* hitting the *Long* on the starboard quarter just forward of the after-deck house. As the *Long* slipped by, her starboard propeller guard struck the *Arcturus's* bow.

THE COLLISION AS SEEN BY THE "LONG"

The *Long*, after the firing destroyer had finished, went ahead two-thirds speed, 10 knots. She changed course from 85° to 58° true and stood up toward the target. She did this in order to get her umpires, who had been on the firing ship.

The two blasts sounded by the *Arcturus* were heard by the *Long*. The tender was seen to change her course to the left.

The *Long's* captain stated that he thought the *Arcturus* would use the same procedure followed by the squadron that day for changing positions after the completion of firing by a ship. He believed the *Arcturus* would steer the course 0° true.

The *Long* continued to approach the *Arcturus*, and as a result she slowed down to one-third speed. Her rudder was put left 20°, and her head swung slowly to the left. The captain was on the bridge and at the con. He made no other move until he saw that a collision was imminent, when, in a last desperate attempt to clear, he gave the following orders: **"Right full rudder. Full speed ahead both engines."** This maneuver was made in the attempt to swing the stern clear.

At the subsequent court of inquiry the captain of the *Long* testified as follows:

"In heading the destroyer on course 58° true it was assumed that the tender would follow the same procedure as on the previous shifting of the 'set-up.' It had been our squadron doctrine that upon completion of a ship's firing, the firing ship should cross over ahead of the tug and parallel the line of the raft on a reverse course

in order that she might receive her target screens, during which time the tug was to continue ahead at slow speed in order to maintain the course and preserve the set-up. Accordingly it was assumed that the U. S. S. ——— would cross over ahead of the tug and head on a westerly course in order to receive her screens. It was for this reason that the destroyer headed on a course 58° at this time, in order that she might bear over toward the target, and with the intention of crossing astern of the tender and changing her course more to the right as she had gotten over in the vicinity of the target, and in order to stop outboard of the U. S. S. ——— when she should arrive at her position close aboard the raft for taking her screens aboard. It was desired to get our observers aboard as quickly as possible, as we wished to make a couple of rehearsals on the target before proceeding to the depth-charge area for making rehearsal runs. Attention has already been invited to the fact that the destroyer's officers, fire-control men, and members of her guns' crews were abroad the U. S. S. ———. At about 1.44 the officer of the deck of the destroyer gave the order to the helmsman for 10° left rudder; I immediately gave the order to give her 20° left rudder in order that we might swing to port for preserving our position at that point and in order to keep clear of the tender. At 1.47, when it was noticed that the tender was continuing to swing to port, I gave the order to slow the engines to one-third speed. During all this time the destroyer had 20° left rudder on. At 1.48 I gave the order to stop, and to the helmsman to put the rudder hard left, which he did. At this time it is estimated that the destroyer was headed about 340° and was continuing to swing to the left. Up until this time it was my belief that the tender would change her course to the right in order to cross over to her position on the other side of the target line, and I did not think for one moment that it was her intention to steady on a course so far to the left, judging from my previous experience in operating in conjunction with her. In maneuvers such as we were engaged in, it is doctrine that each vessel give and take in order to avoid one another during such close operations in such close proximity with one another. When I realized that the tender apparently was going to continue to swing to the left I signaled to the engine room to make standard speed, immediately followed by full speed, followed immediately over the telephone to make all possible speed."

The captain of the *Arcturus* testified as follows:

"From the position of the *Long* under the circumstances I knew that I had the right of way over the *Long* and was required to maintain course and speed. My estimate of the situation was to allow the destroyer to do as she wished and to leave her as much room as possible for doing it. I judged that she could either pass ahead,

turn to the port, or stop. I judged that she might do any one of these three things. I calculated that he would not try to pass astern, and therefore I stopped and backed the engines, not for the purpose of avoiding collision but to allow the destroyer room to pass ahead. I might have attempted to change course, having the right of way; I might have blown one blast on the whistle, indicating a turn to starboard; but this would have, I thought at the time, confused the destroyer in her movements. However, a hard right rudder would, perhaps, at this time, or even before the engines were backing, have been a useless thing under the circumstances because the tender or any other vessel of her type would not have made any way to starboard, but the stern, and, in fact, the whole ship would have made considerable leeway to port, thus crowding the available space which the destroyer had for maneuvering. I would not, of course, have turned to port under the circumstances. The speed of the ship at the time the engines were reversed was, I estimate, less than 5 knots. I had previously been making 5 knots speed and had just made a long turn to port with a 25° rudder, which would have had the tendency to slow the ship down to approximately 3 knots and at the same time the engines had been going ahead working slowly up to 10 knots from 3 knots. This speed of 5, 6, or 7 knots through the water is very critical in regard to the efficiency of the rudder while the engines are backing. It is difficult to tell when the screw action and wash of the streams counteract the effect of the rudder. It would be difficult to tell what the head of the ship would do. It was necessary, for a degree of safety, to keep the ship from swinging in an uncertain direction and to keep control of the ship as far as possible, bearing in mind that the tender is a single-screw ship and that our speed at the time was slow."

All the testimony showed that neither of the captains considered that a collision was imminent until the ships were about 150 yards apart. At that time it was too late to maneuver to avoid collision.

The court of inquiry found the following to be established:

> That as the *Long* approached she continued to swing slowly with left rudder, reduced speed to one-third, and then stopped her engines. Subsequently she increased speed to standard, then full speed, then emergency full. That just prior to the collision the rudder was shifted to full right.
>
> That by articles 19 and 24 of the International Rules the *Long* was charged with keeping clear of the *Arcturus*.
>
> That under articles 21 and 27 the *Arcturus* was charged with the duty of taking such necessary action as possible to avert collision.

The court expressed the following opinion:

That the failure of the *Long* to keep clear of the *Arcturus* was due to the poor judgment of the commanding officer of the *Long*.

That the commanding officer of the *Arcturus* failed to take such action as it was his duty to take, and that such failure was an error of judgment.

That letters of reprimand be directed to the two commanding officers.

The reviewing authority held that in his opinion **there was nothing reprehensible in the manner in which the captain of the "Arcturus" acted.**

The rules of the road are mentioned throughout this case, and particular attention was paid by the court to articles 21, 27, 19, and 24. Articles 22 and 23 also apply very strongly to this case.

"Where steamers are crossing, and because of their respective positions it is deemed desirable as a matter of precaution by the giving way vessel that she alter her course, such action will be considered by the courts as sufficient to show that the risk of collision existed, and to impose upon the giving way vessel the obligation of keeping clear." **The Carroll,** 8 Wall. 302, 305.

In **The Devonian,** 110 Fed. 588, the court held:

"The privileged vessel has no right to keep her course with her eyes shut. The duty of the privileged vessel is to hold her course, the duty of the burdened vessel is to keep off that course. But the privileged vessel is to hold her course, constantly observing the burdened vessel in order to notice if the latter fails in her duty. When the failure of the burdened vessel becomes apparent, the privileged vessel must change her course as prudence commands. If she thereafter keeps her course by reason of this failure to observe the fault of the burdened vessel, she is at fault. Want of watchfulness on the part of the privileged vessel does not altogether excuse the burdened vessel, but it is none the less a fault."

In **The Delaware,** 161 U. S. 459, 468, the Supreme Court held:

"The law is settled that the preferred steamer will not be held in fault for maintaining her course and speed, so long as it is possible for the other to avoid her by porting (right rudder), at least in the absence of some distinct indication that she is about to fail in her duty. If the master of the preferred steamer were at liberty to speculate upon the possibility of the approaching steamer failing to do her duty and keep out of the way, the certainty that the former will hold his course, upon which it is the very object of the rule to insure, would give place to doubts on the part of the master of the obligated vessel as to whether he would do so or not, and produce a

timidity and feebleness of action on the part of both, which would bring about more collisions than it would prevent."

Relative to rules 22 and 23, the courts have held in the following cases as follows:

"Under these rules the *Modoc* was the burdened vessel. It was her duty to keep out of the way of the *Camano* and to pass under her stern. The *Modoc* contends that she gave two whistles, indicating that she would cross the bow of the *Camano*, thus leaving her on the starboard side of the *Modoc*. Rule 9 authorizes such a maneuver only when it can be executed without involving risk of collision." **The Modoc,** 216 Fed. 445.

Rule 27, the general prudential rule. The Federal and Supreme Courts have interpreted this rule as follows:

In the **New York,** 175 U. S. 187, 205:

"Cases arise in navigation where a stubborn adherence to a general rule is a culpable fault, for the reason that every navigator ought to know the rules of navigation are ordained not to promote collisions."

The **Straits of Dover,** 120 Fed. 900:

"The obligation imposed to obey these rules is imperative, and those violating them, except under circumstances contemplated by the rules, must bear the consequences if damage ensue."

The **Alber Dumois,** 117 U. S. 240:

"Exceptions to the general rules of navigation are admitted with reluctance on the part of the courts and only when an adherence to such rules must almost necessarily result in a collision—such, for instance, as a manifestly wrong maneuver on the part of the approaching vessel."

Yang-Tsze Insurance Association et al. v. Furness Withy & Co., 215 Fed. 859:

"The application of the rule 27 is restricted by its terms to situations of immediate danger. That rule applies only to exceptional cases. As said by the Supreme Court, in the *Oregon*, 158 U. S. 186, exceptions to the rule are admitted with great caution and only when imperatively required by special circumstances of the case. It follows that, under all ordinary circumstances, a vessel discharges her full duty and obligation to another by a faithful and literal observance of these rules."

In **Marsden on Collisions** (6th ed.), p. 455, it is said:

"But article 27 applies only to cases where there is immediate danger, perfectly clear; and the departure from the rules must be no more than is necessary."

Quotation from the following case has to do with what is a course. **Liverpool, Brazil & River Platte Steam Navigation Co. v. United States,** 12 Fed. (2d) 128, decided January, 1926:

"The course referred to in the International Regulations is the actual course and not the compass direction of the heading of the vessel at the time the other is sighted. The true interpretation of the term in the rule (art. 18) 'keeping her course' (is that the ship) is at liberty to hold upon the course which she would have pursued had no vessel been in sight, and was not bound to follow the direction in which her head, as she rounded the point, happened to be at the moment when she was first sighted."

"The *Romney* was not under any obligation to change her helm and lay a straight course. It was the duty of the *Manassas* to take notice of the character of the *Romney's* course. The captain and others on board the *Manassas*, observing that the *Romney* was not proceeding on a straight course, but was maintaining a curved course to starboard, made no effort to keep out of the way, or to avoid the collision or the risk of collision. Instead of stopping, reducing speed, reversing, or going to starboard in time to avoid the collision, the *Manassas* did the most dangerous thing possible by attempting to cross the *Romney's* bows, notwithstanding that the signals were crossed, and that the *Romney* refused to give assent to any maneuver not complying with the regulations."

In **The West Hartland,** 2 Fed. (2) 834, the court held:

"After giving the signal that she would maintain her course and speed, the *West Hartland* was at fault in reversing her engines full speed astern without notice or warning."

The Sunnyside, 91 U. S. 208:

"Cases arise in navigation where a stubborn adherence to a general rule is a culpable fault."

COLLISION CASE NO. X

Principal Points Involved.

1. Speed in a fog.
2. Rule of the Road, article 16.
3. Procedure in a fog with regard to engines, etc.
4. Duties of the commanding officer in a fog.

Facts Established by the Court.

1. That both vessels were proceeding with due caution.
2. That the fog signals of the two vessels were not heard in sufficient time to avoid a collision.
3. That both vessels were equally responsible.

Recommendation and Action of Department and Federal Courts.

1. Court recommended that no further action be taken.
2. The department held that there was no liability on the part of the destroyer.
3. The Federal district court held the destroyer to be solely at fault and liable on suit by the owners.
4. On appeal to the circuit court of appeals by the Government, the district court's decision was changed to hold both ships at fault and decreed half damages.

COLLISION CASE NO. X

A destroyer, the *Greyhound*, left the navy yard, Philadelphia, Pa., and stood down the Delaware River out to sea. She shaped her course for Newport, R. I., after leaving Delaware Bay. Her orders were to make speed runs on this trip as she was new. The weather was overcast and cloudy but calm, with no indications of bad weather.

The *Greyhound* started the runs at 1740. The first run was at 12 knots and was for four hours. After rounding Five Fathom Bank at 1920, the course 34° true was set.

From about 2100 on the weather was getting thicker, and at 2120 a thick fog set in. The *Greyhound* captain decided that it would be unwise to undertake the high-speed runs, so he directed that the speed of 12 knots be maintained. Extra lookouts were stationed. The fog signal started and sounded every minute. All other precautions deemed necessary were taken. Two lookouts were stationed in the eyes, one on each side.

The same afternoon, at 1505, the *Hope*, a liner, left Brooklyn, N. Y., and proceeded to sea en route to Cuba. At 1955, when off Seagirt, N. J., her course was set at 190° true. She continued at 14 knots on this course until about 2225, when she slowed down on account of a heavy fog. Extra lookouts were set, one in the eyes, and the fog whistle started.

On encountering the fog her master changed course to 180° true, in order to take him farther off the coast and to give more sea room. Speed was reduced to 8 knots. Later, about 2315, the *Hope* slowed to about 3 to 4 knots, as the fog was thickening.

The runing lights of both ships were burning brightly, were located, constructed, and showed through the arc required by the International Rules of the Road. Both commanding officers were on the bridge continuously from the time the fog set in until after the accident. The visibility was such that the lookouts in the eyes could not be seen by the officers on the bridge.

AS SEEN FROM THE "GREYHOUND"

About 0010 the *Greyhound's* captain heard, or thought he heard, the fog whistle of a steamer on his port bow. His testimony on this subject before the district court was as follows:

"I heard a sound * * *. This sound attracted my attention on the ground that it might be a fog signal. I inquired and found

that no one else on the bridge had heard anything which sounded like a fog signal. I gave immediate orders to exercise unusual diligence in listening and to sound our own fog signal. If this sound had been a fog signal, we would have given an immediate response to the other vessel. Our signal had just been sounded when through the fog came the loud, piercing fog signal of a steam vessel under way on our port bow. I immediately called out, '**Stop the engines**'; and, being the nearest to the engine-room telegraphs, I shoved them to the stop position and got the stop signal back from the engine room.

"Almost as the signal was heard the lights of the vessel were seen—first, a string of white lights with nothing to indicate the heading of the vessel. I gave the order, '**Hard right.**' And just after that a green light appeared close under the bow."

At about 0013, the *Greyhound* struck the *Hope* a glancing blow on the starboard side just about abreast of the *Hope's* bridge, then slipped by and off into the fog.

AS SEEN FROM THE "HOPE"

The master and the second officer of the *Hope* were on the bridge. The lookout could not be seen by the officers on the bridge.

At about 0008 a fog signal was heard by the lookout and reported. This same signal had been heard by the master and the second officer. The *Hope's* fog signal was immediately sounded. This signal was repeated three times. No answering signal from the vessel was heard during this interval. Then a loud signal was heard and the *Greyhound* broke through the fog, apparently coming at a high rate of speed.

The ships collided, and after they were clear the *Hope* found that she was able to return without assistance to New York. The steamer was not seriously damaged and the *Greyhound* had her bow bent. There were no casualties to personnel.

At the subsequent court of inquiry the following interesting testimony was given in substance as follows:

The captain of the *Greyhound* was on the bridge all of the time, from the setting in of the fog up to the time of the accident. He had full knowledge and was the one in full command of the situation. To quote his testimony:

"The sighting of the lights and the collision were nearly simultaneous. Accurate judgment is very difficult, but the other vessel appeared to be running at a high rate of speed, at least 15 knots.

"I believe that the speed of 12 knots for this vessel in a fog was reasonable and proper, particularly in view of the very large backing power of the turbines of this vessel.

"It is manifestly impossible to verify such a conclusion, but it is my opinion that any other action than that taken at the time a collision

appeared imminent would have resulted in the total loss of or great damage to this vessel and her ability to keep afloat."

The captain stated that the *Greyhound* or any ship would cover about 250 yards in 30 seconds at the speed of 12 knots. That the engines of the *Greyhound* could be reversed in about 10 seconds, and be going full astern in much less than a minute. In fact, the ship could have been stopped dead in the water in about a minute, with the boiler power in use at the time.

The master of the *Hope* stated in his testimony that his ship was going at the rate of about 3 or 4 knots and that he had full boiler power. The range of visibility was about 100 yards, as testified by both ships. Both captains stated, in answer to questions by the board as to reliability of sound in a fog, that the fog signals are erratic, and, in fact, it is very possible that a signal may be made and not heard, the next one heard, and then one or two missed. Both captains also considered that after sighting the other, no action could have been taken to prevent the accident.

The following pertinent facts are taken from the finding of the court of inquiry:

(*a*) That the courses of the *Hope* and the *Greyhound* were converging at an angle of about 146°.

(*b*) That both vessels were proceeding with due caution under the existing circumstances. That they were showing the lights required by law.

(*c*) That the fog whistle of the *Greyhound* was audible to the *Hope* for about three minutes before the collision, but the whistle of the *Hope* was not definitely audible to the *Greyhound* until just prior to the collision.

(*d*) That the *Greyhound* was not able to hear distinctly the signals of the *Hope* in sufficient time to avoid the collision.

The following pertinent excerpts are taken from the opinion of the court of inquiry:

(*a*) That the collision might have been avoided had the master of the *Hope* changed course to the right on hearing the *Greyhound's* fog signal on his starboard bow three minutes before contact.

(*b*) That the captain of the *Greyhound*, steaming at 12 knots and hearing a possible fog whistle, was justified in holding his course, with the sound on his port bow.

(*c*) That the responsibility rests equally with both vessels.

The court recommended no further action.

The owners of the *Hope* libeled the United States in the district court of New York, which held that the *Greyhound* was solely responsible. The following extracts from the opinion of the court are pertinent:

" The International Rules of the Road govern the navigation of a war vessel in time of war. **Watts v. United States,** 123 Fed. 105. The Government contended that the failure of a war vessel to obey the navigation rules during war time was excusable. The court refused to agree with this contention. The *Greyhound* was under the duty to observe the rule as to moderate speed in like manner as a privately operated ship in the admittedly dense fog.

" What is a moderate speed is, of course, a relative term, but it has been the subject of frequent comment and determination. Justice Brown (an acknowledged expert in admiralty), in the **Umbria,** 166 U. S. 404, stated the rule as follows:

" ' The general concensus of opinion in this country is to the effect that a steamer is bound to use only such precautions as will enable her to stop in time to avoid a collision, after the approaching vessel comes in sight, provided such approaching vessel is herself going at the moderate speed required by law. In a dense fog this might require both vessels to come to a standstill until the course of each was definitely ascertained. In a lighter fog it might authorize them to keep their engines in sufficient motion to preserve their steerageway.'

" Mr. Justice Brown again referred to the rule in **The Chattahoochee,** 173 U. S. 540, using the following language:

" ' No absolute rule can be extracted from these cases. So much depends upon the density of the fog, and the chance of meeting other vessels in the neighborhood, that it is impossible to say what ought to be considered a moderate speed under all circumstances. It has been said by this court, in respect to steamers, that they are bound to reduce their speed to such a rate as will enable them to stop in time to avoid a collision after an approaching vessel comes in sight, provided such approaching vessel is herself going at a moderate speed required by law.'

" Ordinarily it would hardly be debatable that a speed of 12 knots in a fog of the density which prevailed at the time of the collision in the instant case would be wholly unwarranted and immoderate.

" The Government contends, however, that the *Greyhound* was justified in proceeding at 12 knots because of her tremendous backing power, which would enable her to stop in a shorter distance than ordinary vessels. It is quite apparent that whatever the backing power of the *Greyhound* may have been, it was of no avail here. That speed in this dense fog brought her into collision in a few seconds before her engine power could even be brought into play. The distance the ships were visible to each other in the fog and the speed at which they were approaching and traversing the space between them are the real factors in the present problem. How futile is the engine power in stopping or reversing, if the colliding

vessels are upon each other in a few seconds of time, before the power can be brought into play. In **The Manchioneal,** 243 Fed. 801, the circuit court said:

> "'Speed is always excessive in a vessel that can not reverse her engines and come to a standstill before she collides with a vessel that she ought to have seen, having regard to the density of the fog.'

"In **The Haven,** 277 Fed. 957, the court said:

> "'A vessel navigating in a fog must go no faster than will permit her to stop within the distance she can see ahead.'

"In **The City of Norfolk,** 266 Fed. 641, the court said:

> "'In such navigation, moderate speed means speed so slow that the vessel can be stopped within the distance at which another vessel can be seen.'

"The court believes that the speed was highly excessive under the circumstances.

"The rule is applicable to the *Hope* as well as to the *Greyhound.* The excessive speed of the *Greyhound* was the proximate and contributing cause of the collision.

"The provisions of article 16 are mandatory, and require all vessels to stop their engines immediately. The duty of the *Hope* was to stop. Neither of the navigators was free to substitute his judgment for the positive requirements of the rule. The rule is positive law.

"The failure of the *Hope* to stop her engines, assuming it was her duty so to do, could not have been one of the causes of the collision. It was the gross negligence on the part of the *Greyhound* which accounts for the collision."

The district court found the *Greyhound* solely at fault and found for the owners of the *Hope.* The United States appealed.

On appeal, the circuit court of appeals handed down its decision as follows, after quoting the rule, article 16, of the International Rules:

"Both vessels violated the rule. Fog signals were heard by both vessels. The *Greyhound's* commander heard two separate signals, both from the *Hope.* The *Hope's* captain heard the *Greyhound's* whistle. In the ***Selja,*** 243 U. S. 291, the Supreme Court pointed out that the first paragraph of this rule gives to the navigator discretion as to what shall be a moderate speed in a fog, but the command of the second paragraph, above quoted, is imperative that he must stop his engines when the conditions described confront him. We have been firm in adhering to the obligations of this rule. * * * Excessive speed in violation of the second paragraph is sufficient

upon which to rest responsibility of the vessel which violates the rule. The *Hope* clearly committed a violation of the statute, and the burden rests upon her for failing to show that her failure to obey the rule could not possibly have contributed to the collision. * * * The bow of the *Greyhound* struck the *Hope* abreast of the bridge. If the *Hope* had retarded her progress but a trifle, the *Greyhound* would have cleared. If she had stopped when she first heard the fog signal, three minutes before the collision, she would not have reached the intersection of the destroyer's course until the destroyer had passed. The destroyer is at fault for the same reason. The excuses offered for her not stopping are entirely irrelevant and insufficient. Article 16 was intended to prevent collisions. * * * Where the warning was received or the commander thought that he heard a whistle forward of his beam, that is enough notice of the proximity of a vessel forward of his beam to cause him to comply with the rule. And even where a vessel is proceeding at half speed, the obligation to stop is none the less imperative.

"The rule governing the speed of a vessel in a fog is entirely relative when depending upon the range of vision at the time, and the possibility of stopping before reaching the object which should be seen in a fog. But there can not be the slightest hesitancy in concluding that there is a breach of the rule where the vessels have each navigated at a speed which is so fast that they can not stop within the distance that they can see ahead."

The court here had cited the following cases:

The Nacoochee, 137 U. S. 330, in which the Supreme Court held:

"She was bound to observe unusual caution, and to maintain only such a rate of speed as would enable her to come to a standstill, by reversing her engines at full speed, before she should collide with a vessel which she should see through the fog."

The case of **The Manchioneal,** mentioned above, was also cited.

Continuing the quotation from the opinion of the circuit court:

"The fog was so dense that neither vessel could see the lookout on its own bow and the lights could not be seen more than 200 or 300 feet ahead. Neither vessel stopped its engines before the collision. The responsibility of both is so plain that we do not hesitate pronouncing both responsible for the consequences of the collision."

In the case of **The Martello,** 153 U. S. 64:

"While it is possible that a speed of 6 miles an hour, even in a dense fog, may not be excessive upon the open ocean and off the frequented paths of commerce, a different rule applies to a steamer just emerging from the harbor of the largest port on the Atlantic coast, and in the neighborhood where she is likely to meet vessels approaching the harbor from at least a dozen points of the compass.

Under such circumstances, and in a fog that vessels could not be seen more than a quarter of a mile away, it is not unreasonable to require that she reduce her speed to the lowest point consistent with a good steerageway, which the court finds in this cause to be 3 miles an hour."

The circuit court of appeals discussed the rule of sight or the seeing distance in the case of **The Sagamore,** 247 Fed. 743:

"The discretion of the navigator in the matter of the speed in a fog must be exercised not wholly as a matter of the individual judgment or of the individual views as to what is a moderate speed, but also with due regard to the interpretation of the term 'moderate speed' by the maritime courts, and to the general standards of good seamanship established by the courts in applying the term 'moderate speed.'

"While it is apparent that the discretion of the navigator as to the speed will be affected by reliance upon the performance of other vessels of their statutory duty in a fog, thus giving him time to act, it seems doubtful, upon the authorities, whether it is practical to attempt to modify the rule stated in the **Umbria, Chattahoochee, Nacoochee,** and **Counsellor,** except by reading it in conjunction with the requirements stated in **The Colorado,** 91 U. S. 692, 'Very slow speed, just sufficient to subject the vessel to the command of her helm,' and in the **Martello,** 'Reduce her speed to the lowest point consistent with good steerageway.'"

Relative to that part of the rule which requires stopping of the engines on hearing the fog whistle or signal of another ship forward of the beam, the Federal and Supreme Courts have held as follows:

"That it is imperative for a ship hearing the fog signal of another to stop her engines and thereafter proceed with caution."

In the case of the **City of New York,** 147 U. S. 73, the court held:

"There is no such certainty of the exact position of a horn blown in a fog as will justify a steamer in speculating upon the probability of avoiding it by a change of the helm, without taking the additional precaution of stopping until its location is definitely ascertained."

In the case of the **Tillicum,** 230 Fed. 415, the court said:

"* * * when the *Rosalie* first heard the whistle ahead her engines were stopped for about a minute, during which time she drifted, and hearing no response to the whistle she gave, was started forward again, but her engines were almost immediately reversed—she having heard another whistle, followed by a danger signal from the *Tillicum.* In the dense fog then prevailing, the *Rosalie,* in our opinion, can not be regarded as having been navigated with caution in being started ahead so quickly without ascertaining anything in

regard to the location of the vessel whose whistle she had heard and therefore violated the express provisions of the statute quoted."

In line with the decisions of the courts the following citations are given from cases recently decided:

The district court, in a similar case, the **Luella v. Rosedale,** decided in September, 1927, held as follows:

"The *Luella* was not proceeding with reasonable caution and was at fault. For her to have proceeded at the rate that she did (10 knots) up through the Bristol Channel in a dense fog when she could not see ahead at the most over 100 yards, particularly after hearing fog signals, leaves no doubt as to her speed being excessive; she was far from being able to stop or to take the necessary means to avoid a collision within the distance which her lookout could see.

"The *Luella* was also wrong in changing her course after hearing the *Rosedale's* fog signals before the position of the *Rosedale* was ascertained.

"There was a breach of the imperative statute by the *Rosedale* in her failure to stop her engines. * * * The rule does not state how long the engines shall remain stopped, but the stopping even for a short time would reduce the headway when the vessel may again proceed with caution."

In a case decided in January, 1928, by the Federal district court, **The Conehatte v. The Lubrafol,** the court held:

"Navigation of a ship in a dense fog upon the assumption that another vessel whose signals are heard is proceeding upon a parallel course must always be unsafe unless it clearly appears that she has passed astern and her signals are receding in the distance. The only exchange of signals permissible, until vessels are in sight of one another, do not in any way indicate how the vessel may be heading with relation to each other, or whether their courses cross, converge, or are parallel. The direction of sound is notoriously confusing in a fog.

"Each of these vessels, upon hearing the signals of the other, apparently forward of the beam, was bound to maintain only such speed as would enable it to stop within its range of vision."

In another case the court held:

"A ship is not bound to stop solely on account of fog, and if she had been stopped three or five minutes before a collision she can not be held in fault for what her previous speed may have been."

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